



# Trust Deed Upgrade Order Form

Name	<input type="text"/>	Phone	<input type="text"/>
Firm	<input type="text"/>	E-mail	<input type="text"/>

## Trust Details

Trust name

Original Deed Date  Last Amendment Date

Meeting Address

Please submit a copy of the original trust deed (and any documents that have amended it) together with this order form.

## Trustees

**IMPORTANT: Full, verifiable names are required.**

Corporate Trustee (if applicable)

ACN

Officer Names and Roles (First Officer listed to be Chairman, first 2 Officers to be signatories)

<input type="text"/>	<input type="checkbox"/> Director	<input type="checkbox"/> Secretary
<input type="text"/>	<input type="checkbox"/> Director	<input type="checkbox"/> Secretary
<input type="text"/>	<input type="checkbox"/> Director	<input type="checkbox"/> Secretary
<input type="text"/>	<input type="checkbox"/> Director	<input type="checkbox"/> Secretary

Individual Trustee/s (First person listed to be Chairman)

## Principal/Appointor/Unit Holders

Name

Name

Name

Name

The trust deed will be amended to insert a new income definition, streaming clauses and to update the trustee's powers to reflect our current provisions. **Please note** we do not provide opinions on resettlement issues, but we refer identified issues to you for instructions.

## Additional Information/Special Instructions

## Payment Details

Please debit the following card details by the amount of \$

Type of Card  Visa  Mastercard  Diners Club\*  Amex\* \*3% SURCHARGE APPLIES

Card Number  Expires  CCV

Name on Card  Signature

Please return this completed form to [acis@acis.net.au](mailto:acis@acis.net.au), Freefax 1800 655 556 or Locked Bag 1, Fortitude Valley Q 4006

# Trust Deed Upgrade Order Form

---

## General Principles

According to the High Court of Australia, in relation to trust income:

1. The term "share" in section 97 of the Income Tax Assessment Act 1936 (the "Act") means a "proportion" of the net income of the trust. The court rejected the notion that the term should refer to a quantum of income distributed to a beneficiary. In other words, a beneficiary might be liable for tax on amounts not received or distributed to it. This is particularly relevant where the taxable income of the trust exceeds the income actually distributed by the trustee. The proportionate approach means that beneficiaries will be assessed for tax on the proportion of net income of the trust equal to the proportion of trust income distributed to them.
2. The trust deed for the trust can define what income is. This means that, provided the trust deed has an adequate definition of income and the trustee has the discretion to determine what is or is not income at any time, the trustee can include in income items that might not otherwise be income (e.g. capital gains).

Many older trust deeds do not have the necessary provisions to enable them to take advantage of these principles. Without those provisions:

- the trustee may not be able to determine how income is to be determined in any financial year;
- the trustee may not be able to distribute capital gains or franking credits;
- the trustee may not be able to distribute specific categories to particular beneficiaries;
- beneficiaries may be taxed on amounts they are not entitled to and have not received.

While updating the income provisions outlined above, the Trust Deed Upgrade also addresses the ever increasing requirement to expand on the trustee's general and investment/banking powers, by updating those powers to reflect our current provisions.

Where you decide that changes to the trust deed are necessary or desirable, Acis will provide a deed of amendment to incorporate these changes using our standard clauses. We will provide our standard form of amendment only in the absence of any additional instructions.

### Important Note

Great care needs to be taken when amending trust deeds to incorporate these changes, as the trustee must exercise caution to ensure that the trust is not resettled. Resettlement may result in capital gains tax or stamp duty liabilities.

While we do not provide an opinion on possible resettlement, CGT, or stamp duty matters, if an issue is identified, we will refer it to you for instructions before proceeding.