TBM ACCOUNTANTS

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DISCRETIONARY (FAMILY) TRUST OVERVIEW

A trust comprises of the following officeholders:

- Settlor
- Trustee
- Appointor
- Beneficiary

Briefly their roles are as follows:

- **Settlor**: This person commences the trust by giving a sum of money (" settlement sum") to a trustee for the benefit of beneficiaries. The document that is created here is the Trust Deed. The settlor does not further partake in anything with the trust. ie is not a trustee or beneficiary.

- **Trustee**: They manage the affairs of the trust. They legally own all the assets and incur the liabilities of the trust. The trustee is wholly liable for all the liabilities of the trust but can sell the trust assets to satisfy these liabilities. If the liabilities exceed the assets then the trustee is personally liable. For trading entities it is highly recommended that the trustee is a corporate entity.

- **Appointor**: Otherwise known as "God". The appointor is king of the trust. They have all the power as they can remove the trustee and appoint another trustee at their own discretion. Challenging an appointor's decision in the vast majority of cases is void. There can be more than one appointor, acting jointly or on their own.

- **Beneficiary**: The beneficiary receive, or are allocated in a loan account, the profits of the trust (if profits are not allocated then they are taxed at penalty rates). The decision in a discretionary trust as to who will receive what is solely that of the trustee. No beneficiary can insist on a distribution but once a distribution has been made then the beneficiary has a legal right to that amount distributed to them. Whether a distribution has been received or credited to a loan account, it must be included in the beneficiary's income tax return.

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