

Trust Newsletter #7 - Trust Continuity

Hi Folks

Mark Pyteltek here again, of Private Trust Makers (PTM), the makers of your Trust.

The months are already flying past in 2025 and before you know it 2025 will be over! Maybe we can radiate to the ether that 2025 will be a slow year.

Now for another chapter on how you can engage your Trust to favor your financial future.

To all our valued Trust clients, including the most recent new ones, welcome to our monthly free educational circular as part of our program to educate and upskill our Trust clients so they learn to competently use their Trust without having to run to and rely on lawyers or accountants, thus saving you time and money. The earlier Trust Newsletters are available, free, on our website www.solutionsempowerment.org within the “Non Registered Trust” section under the tab “Resources”

Today’s subject matter topic is “Trust Continuity”, that is, the Trust continuing to protect a pre-existing estate after the death of the incumbent or remaining Trustee.

Notice 1 the information delivered below is not legal ad-vice.

Notice 2 I am not a practicing lawyer nor a Certified Accountant.

Notice 3 the information delivered below is strictly private and confidential, delivered for your personal benefit

Trust Continuity

In Australia and Commonwealth Countries in general Trusts have a life span of 80 years (Perpetuity Date is the end date of the Trust) with the only exception to the writer’s knowledge being New Zealand, where the lifespan is 120 years.

Once the perpetuity date is reached or is approaching, the parties (Trustee/s and Beneficiaries) can meet and vote on whether they wish to dissolve the Trust, sell off or disperse its estate, or elect to extend the date a further 80 years (or 120 years in the case of New Zealand). The outcome of the vote is recorded within the minutes of a meeting which is duly signed by the Trustee/s before an independent witness.

In this manner a Trust may persist in perpetuity if at the end of each lifespan of the Trust the parties elect to extend the life of the Trust on each occasion.

Trusts don't otherwise die but they can be dissolved by a majority vote of the parties in favour of dissolution of the Trust.

However people do die!

For this reason a Trustee, if in a single Trustee Trust, or the remaining Trustee where there are more than one Trustee, should necessarily appoint another Trustee to take over the administration of the Estate held in Trust prior to the passing (death) of the remaining Trustee or even upon the death of the first Trustee while the second Trustee remains alive.

This ensures continuity of the Trust.

Appointment of the incoming Trustee is enabled through a document titled "Notice of Appointment of Trustee" whereby an incumbent Trustee identifies a party as a successor Trustee and contacts them with a view and purpose to inform them it is the wish and desire of the Trustee that that party is to take over the administration of the Estate as its Trustee and that you, the incumbent Trustee, wish to meet up with them so they can sign an undated document titled "Notice of Appointment of Trustee" (Notice) before a witness, or that you will forward by registered mail post or email the same document for their valuable signature and that of a witness.

The text of the Notice should state the words "<Name> agrees to accept the appointment of "Trusteeship" for <XYZ" Trust and to administer the Trust Estate to the best of their ability for all its Beneficiaries, upon the passing of or medical certification of incompetency of <Name of incumbent Trustee>". You should have received a copy of such a Notice at the time the Trust Deeds were mailed to you.

If you don't have a word doc format copy of the Notice, please contact cherie@solutionsempowerment.org to request a copy that we can email to you.

This enables the smooth and seamless transition of Trusteeship so the Estate remains intact and the running of the Estate is not otherwise suspended in any way.

The successor Trustee is most often selected from one or more names listed within the Trust Deed as "Default beneficiaries". On the rare occasion a party external to the Trust may be selected as a successor Trust, possibly where no Default Beneficiaries were appointed outside of the Trustee themselves, or by reason a/the Default Beneficiary

intended to succeed the incumbent Trustee has themselves either passed away or been certified incompetent or otherwise refuses the appointment.

By reason a successor Trustee is appointed when the incumbent Trustee has passed away or otherwise is unable to act as a Trustee as well as the Trust doesn't die but is perpetual, there is no probate involved following the passing of the incumbent Trustee.

In the scenario where the Trustees have a young family with offspring that are under the age of majority, that is under the age of eighteen, offspring under the age of eighteen cannot legally be appointed as a Trustee and certainly shouldn't be appointed as Trustee by virtue they are inexperienced at running an Estate.

In the scenario that one or both parents, being the Trustees of their Trust, pass away while their offspring are under the legal age (18), continuity of the Trust is effected by having Trustees already prepared and appointed for such a scenario to look after the offspring and to take care of and bring them up.

In these circumstances the Trustee/s must consider who would look after their offspring and ensure their needs are met from the proceeds of the Estate created by the Trustees and held in Trust? Is it mum and dad, next of kin, brother, sister God mum or dad etc, being that continuity of the administration of the Trust Estate is paramount by someone that will honour the wishes and aims of the incumbent Trustees as well as properly look after the offspring and treat them as their own.

This is accomplished by identifying and appointing an appropriate party that has consented to the appointment to act as an Interim Trustee via signing a document titled "Notice of Appointment of Interim Trustee" before a witness. A copy of a template example word doc should be in your possession from the time the Trust Deed was mailed to you. If you don't have a copy or cannot locate it, contact cherie@solutionsempowerment.org to request a copy that we can email to you.

Within that document it is expressed that the "Interim Trustee" agrees to administer the Estate of <XYZ> Trust until the day the eldest Secondary Beneficiary (eldest offspring) turns age <year, maybe 25, 30 or what you feel is an appropriate age for your eldest or most competent offspring>.

That the Estate remains intact for the long term benefit of the Beneficiaries is paramount and hence proper and appropriate planning by the incumbent Trustees is essential.

We hope this information was useful and of benefit to you.

Look for the next Trust circular for further insights into practical and exciting applications of the use of your Trust.

Kind Regards,

Mark Pytellek
Principal
Private Trust Makers
in conjunction with
Solutions Empowerment®