

DOCUMENT & INFORMATION REQUIREMENTS TRANSFERS FROM DISCRETIONARY TRUSTS TO BENEFICIARIES

MJHC LEGAL LAWYERS

Superannuation · Property · Wills · Commercial

All correspondence to:
PO Box 412
Mount Waverley VIC 3149

Office Address
21 Hudson Place
Rowville VIC 3178
t: +61 3 9763 0139
www.mjhclegal.com

A. ADVISOR/PERSON ORDERING DEED:

Enquiries, documents, invoices will be directed to this person, unless otherwise stated

Person Ordering:

Firm Name:

Street Address:

Suburb/Postcode

Telephone:

Fax:

Email:

Signature:

Correspondence to be sent: Direct to client: ☐ Via advisor/accountant: ☐
(copy will be sent to accountant/advisor)

B. REQUIRED DOCUMENTS:

- Copy signed & stamped Family Trust Deed and all amendments/appointments Enclosed: ☐
Note: See information contained under 'Missing Documents' if not all Trust deeds can be provided
- Copy most recent Family Trust financial statements Enclosed: ☐
- Company report (If Trustee is a company) Enclosed: ☐ Not applicable: ☐
- Original Certificate(s) of Title Enclosed: ☐
- Original mortgage discharge or caveat withdrawal forms Enclosed: ☐ Not applicable: ☐
- Copy current Council Rates (not an instalment notice) Enclosed: ☐
- Copy current Water Rates Enclosed: ☐ Not applicable: ☐
- Copy current Land Tax Assessment Notice Enclosed: ☐ Not applicable: ☐
- Copy current Owners Corporation Levy Notice Enclosed: ☐ Not applicable: ☐
- Copy Market appraisal/valuation. (Should not be more than 2 months old) Enclosed: ☐
- Copy current Lease documents Enclosed: ☐ Not applicable: ☐
- If documents are to be signed by an attorney, provide original Power of Attorney or certified copy Enclosed: ☐ Not applicable: ☐

C. THE PROPERTY:

Address of property:

Title Particulars (Volume & Folio details):

Brief description of the property and improvements:

(age, property condition, nature of building & improvements, made from timber/brick/brick veneer etc):

Since the Trustee became owner has the property been subdivided/consolidated?

Yes ☐

No ☐

D. THE TRUST:

Trust Name:

Trust ABN:

Provide details of current Trustee(s) of the Trust including name(s) and address(es). If Trustees are individuals, provide dates of birth. If Trustee is a company, provide names of all directors

Has the Trustee held the property in any other capacity either before or after the property first became an asset of the Trust?

No ☐

Yes ☐

If Yes, provide details:

Has a beneficiary lent any money to the Trust? (not to be confused with unpaid present entitlements)

No ☐

Yes ☐

If Yes, provide details of the loan:

Is the property transfer intended to repay this loan?

No ☐

Yes ☐

Are there any unpaid present entitlements owed by Trust to the beneficiaries?

No ☐

Yes ☐

Will the property transfer pay (in whole or part) all unpaid present entitlements to the beneficiaries?

No ☐

Yes ☐

After the property is transferred, will the Trust have sufficient assets to pay all Trust liabilities including unpaid present entitlements of other beneficiaries?

No ☐

Yes ☐

When did each beneficiary receiving the property become a beneficiary of the Trust?

Is the Trust registered for GST?

No ☐

Yes ☐

See accompanying Information Notes - Transfers of Land from DFTs

E. PROPERTY TRANSFER INFORMATION:

Effective date of transfer:

DD/MM/YYYY

The transfer date may have CGT and other implications. It is from this date that the beneficiary as new owner is entitled to receive the rent. To avoid rental apportionment, it would be convenient to make the transfer date on which rental is paid.

What proportion of the property is being transferred – whole or only part of it?

If part only, what proportion?

Name(s), address(es) and date(s) of birth of beneficiary/transferee receiving the property:

If there is more than one beneficiary transferee, the proportion and value each beneficiary is receiving:

Name and address of property manager (if applicable)

☐ Not applicable

Address to which all future notices concerning the property are to be sent (you, your property manager or some other person if so desirable):

For Minutes of Meeting purposes, the date and address where and when the parties resolved to transfer the property

Date (leave blank if not yet known)

DD/MM/YYYY

Address:

If there is more than one beneficiary, what is the relationship between each of the beneficiaries:

Has any beneficiary/transferee paid any amount to the Trust or to any other person in respect of the transfer?

No ☐

Yes ☐

If Yes, provide details:

Is the transfer part of a sale or other arrangement under which there exists consideration or value given for the transfer?

No ☐

Yes ☐

If Yes, provide details:

Did any beneficiary/transferee have a loan account which the Trust under which the Trust owed money to the transferee?

No ☐

Yes ☐

If Yes, Did the transfer relate to forgiveness of the whole or any part of the loan account?

No ☐

Yes ☐

If Yes, provide loan statements before and after loan forgiveness.

F. MORTGAGES, CHARGES AND CAVEATS:

Is there a registered charge on the Personal Property Securities Register?

No ☐

Yes ☐

If Yes, has the bank/lender agreed to release the property from the charge?

No ☐

Yes ☐

Is/was there a mortgage (whether registered or unregistered) immediately before the transfers to the beneficiary?

No ☐

Yes ☐

If Yes,

If Yes, provide evidence of the amount owing with that mortgage immediately before and after the transfer (account statement, letter from bank/lender)

If Yes, was the mortgage liability assumed by the beneficiary?

No ☐

Yes ☐

If Yes, provide evidence of the new mortgage amount

If Yes, how were the funds obtained and new mortgage used?

If No, how was the mortgage liability reduced or discharged?

If No, provide evidence of the source of funds (eg. bank/financial statements)

G. ADDITIONAL INFORMATION:

If no lease but property is rented, provide details of leasing arrangements including details about tenant, rental amount, when rent adjusted and how, lease term and any special provisions

In relation to the rental information of the property, is/will the beneficiary(s)/transferee be registered for GST as at the effective date the property is transferred? No ☐ Yes ☐

See accompanying Information Notes - Transfers of Land from DFTs as applicable

Have the parties sought advice from their accountant/financial advisers regarding the CGT consequences, if any, associated with the property transfer? No ☐ Yes ☐

If No, no steps should be taken by the parties to transfer the property until that advice has been sought and provided

H. DOCUMENT DELIVERY:

Prepared documents are to be sent by: email: ☐ mail: ☐ express post: ☐
Additional Fee of \$13.00 applies

I. COMPLETED INSTRUCTIONS:

Please forward completed instructions to MJHC Legal:

email: mjhc@mjhcllegal.com

mail: PO Box 412, Mount Waverley VIC 3149

Print and review your instructions before submitting and retain printed copy for your file. Adobe Reader will not allow you to save the data in this form.

The Email button will forward your completed Instruction Form to MJHC Legal, Solicitor.

The Reset button will clear all data in the form.

In submitting the completed Instruction Form, the person described in Part A authorises MJHC Legal to prepare the transfer documents and agrees to pay the Fees payable for those packages. You understand that typing/spelling errors or incorrect information given are your responsibility.

Print Form

Submit by Email

Reset

J. MISSING DOCUMENTS:

If you have checked a box that documents are 'not enclosed', you will need to provide copies in order for the property transfer documentation to be completed by MJHC Legal.

In assessing whether a transfer of property from a discretionary trust to beneficiaries is eligible for duty exemption, the State Revenue Office needs to sight copies of signed and dated Trust Deeds including Deeds of Variation and any Deeds of Trustee Appointment. If there are any missing documents, it will be necessary for MJHC Legal to prepare additional supporting material and an additional fee will apply.

Liability limited by a scheme approved under Professional Standards Legislation