

Farm Structuring: Why use a Trust?



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Many farms operate as a Partnership which includes family members



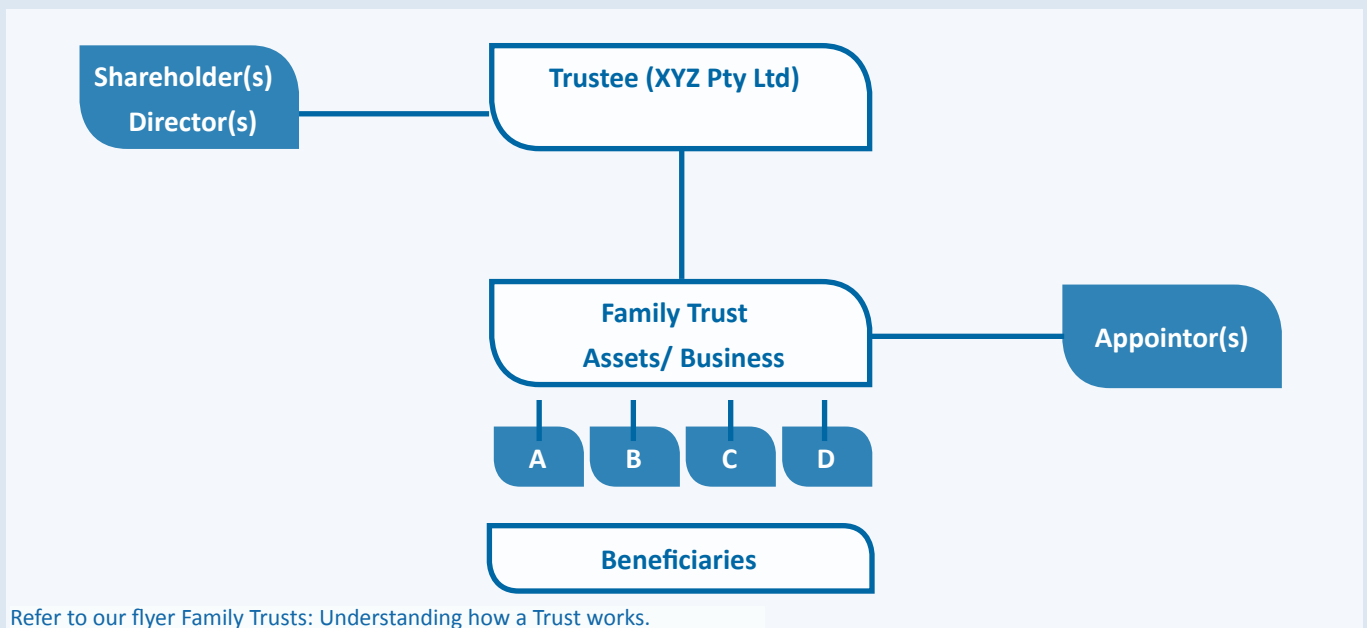
THE PROBLEM WITH A STANDARD PARTNERSHIP

Whilst a partnership is a relatively simple structure, it has the following issues:

1. Taxation- Limited flexibility. Profit is allocated to partners
2. Asset Protection- Does not exist. Each partner is liable for the actions of other partners. All assets owned personally or jointly at risk.
3. Does not distinguish between the farming business and farming assets
4. Succession & Estate planning issues
5. Aged care planning problems

THE ANSWER: FAMILY OR DISCRETIONARY TRUST

Family Trust



Refer to our flyer Family Trusts: Understanding how a Trust works.

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WHY CHANGE TO A TRUST (OR TIDY UP EXISTING TRUST STRUCTURE)?

There are a number of benefits including succession, estate, aged care and tax planning. However a key consideration is asset protection. Farm enterprises have increased considerably in value which means there is more at risk if something goes wrong in the farm business.

A common misunderstanding is farmers think that having liability insurance covers them against being sued. Having insurance in place is important and essential but it is important to understand that your insurance may not cover all scenarios or fall short in covering certain events. On that basis it is important to protect assets by providing an extra level of insurance. Separating the valuable assets from the business operations using a trust can provide this additional protection.

CURRENT TAX RULES ALLOW A RESTRUCTURE

Since July 2016 certain taxation rules were relaxed enabling a small business to change business structures without incurring an income tax liability. This is called the small business restructure rollover and simplifies the way that a farm business can be restructured from a current farming partnership to a family trust.

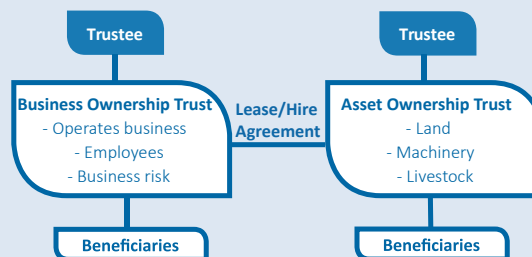
This farm business rollover relief works well with other taxation concessions that may be available to farmers. This includes capital gains tax rollover relief which can allow land to change ownership tax free and stamp duty concessions that may also be available. Please note to access the concessions there is a net assets test and turnover test to determine if you qualify.

THE WINDOW OF OPPORTUNITY

There is an opportunity to restructure your farm enterprise and set it up for the long term with greater flexibility to deal with planning requirements in the future whilst becoming more tax effective and providing greater asset protection. **DON'T MISS THIS OPPORTUNITY!**

RECOMMENDED FARM STRUCTURE

All farm enterprises are different but the aim is to separate the valuable farm assets (land, machinery, livestock etc) from the business risk. Following is a diagram to illustrate this. Please note multiple trusts may be used to hold different assets such as land holdings to help with succession planning.



WANT TO KNOW MORE?

Other relevant flyers you may wish to read.

- Farm Asset Ownership: The Need to Restructure
- Farm Asset Protection
- Farm Succession Planning Through Asset transfers
- Owning Fam Land in a SMSF
- Family Trusts: Understanding how a Trust works

We offer a free no obligation meeting to review your situation. Call us today on 03 5330 7200 and take advantage of this valuable offer.

Are You Financially Secure?

At Mulcahy & Co we are in a unique position to provide the expert advice and solutions of accounting, financial planning, lending, legal and information technology all under the one roof. This makes a normally complicated process seamless to help you on your way to becoming financially secure.

WHAT DOES BEING FINANCIALLY SECURE MEAN?

It means assessing your personal and business goals and developing a plan to achieve them.

1. Goals & objectives
2. Estate plan
3. Risk plan
4. Asset protection plan
5. Taxation plan
6. Debt plan
7. Retirement plan
8. Business plan
9. Superannuation plan
10. Investment plan

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