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FINANCIAL FACTS

TRUSTS

There are 2 basic types of trusts: Discretionary Trusts and Unit Trusts. Unit trusts distribute income and assets according to the number of units held (similar to shares in companies) whereas discretionary trusts give the power to the trustee to determine distributions. Hybrid trusts are a mixture of unit and discretionary aspects of trusts.

KEY TERMS:

- (a) Trustee – administers the trust for the benefit of beneficiaries.
- (b) Beneficiaries – those who benefit from the trust under the terms of the trust deed.
- (c) Trust Deed – a document that sets out the powers of the trustee, the range of potential beneficiaries and the way in which the trust must operate
- (d) Appointor – a person who is able to remove and appoint a trustee.
- (e) Settlor – person establishing a trust by making a gift of settlement for the benefit of beneficiaries. The settlor cannot be a beneficiary.
- (f) Settled Sum – an amount paid by the settlor to establish the trust.
- (g) Vesting Day – the day the trust ends.

TRUST OPERATIONS

The trustee conducts the business affairs of the trust including trading and investing. The trustee also distributes income after expenses have been deducted.

DISTRIBUTING INCOME

In a unit trust the distribution is according to the units held and the rights attaching to those units (in accordance with the trust deed). The trustee of a discretionary trust decides who receives the income. Beneficiaries who receive income from a trust must include that income in their individual tax returns. If a trading loss is sustained no distribution is made but the loss is applied against future income of the trust. Undistributed income is taxed at 45%.

ASSETS

The assets of the trust are held by the trustee on behalf of the trust. In a discretionary trust no individual has defined rights to any portion of the assets. However, in a unit trust ownership is in accordance with the unit-holding and the rights attaching to the units (as per the trust deed).

BENEFITS OF TRUSTS

1) Flexibility for family financial planning of assets and income streams; 2) Legal protection of assets from creditors; 3) Favourable rate of taxation due to the spread of income 3) estate planning.

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