



Quiz

Discretionary Trusts

1. What are the requirements for a valid trust?
 - a. Must be a trustee
 - b. Must be a beneficiary or group of beneficiaries
 - c. Must be a trust deed that sets out the obligations, powers and duties of the trustee in distributing the trust property
 - d. All of the above
2. What are discretionary trusts?
 - a. Trusts where the beneficiaries have a defined entitlement under the trust
 - b. Discretionary trusts involve the trustee exercising a discretion as to who will be a beneficiary out of a group of potential beneficiaries
 - c. These are generally created in wills and are administered for children until they reach the age of 18 or older as determined by the provisions of the will
 - d. They are created to provide long term income benefit to a charity by providing tax free income from your estate, rather than giving an immediate gift

3. What duty does a trustee have in relation to a discretionary trust?
 - a. To act in good faith in considering the beneficiaries although they may then distribute as freely as the trust deed provides
 - b. To fairly distribute the trust property to each beneficiary
 - c. The trustee has no specific duties
 - d. To distribute as they please notwithstanding the clear wording of the deed

4. When do trusts have to vest?
 - a. For trusts created after October 1984, trusts have to have a perpetuity period of no longer than 80 years according to the *Perpetuities Act 1984* (NSW)
 - b. For trusts created before October 1984, trust have to vest within 21 years of the death of someone who was alive when the trust was created or pursuant to the 'wait and see' rule
 - c. Trusts must have a vesting date stipulated in the deed although there are no limits on when the vesting date must be
 - d. Both a. and b.

5. Is it possible to amend trusts and avoid creating a new trust which has negative CGT and stamp duty implications?
 - a. No - any amendment to a trust will result in resettlement
 - b. If you vaguely follow amendment clauses there will be no new trust
 - c. Generally, if you follow amendment clauses precisely and do not use words of declaration when amending you will avoid CGT and duties
 - d. If you make significant changes to the trust but couch them in language that suggests there has been no new trust declared then there will be no tax or duty consequences

Answers:

1. d 2. b 3. a 4. d 5. c