AUXILIUM
Consulting and Trust Services

A PRACTICAL GUIDE TO SET-UP AND MANAGE A FAMILY OR BUSINESS TRUST IN SOUTH AFRICA

STEP 1: DECIDE THE PURPOSE OF THE TRUST

Establish the Purpose of the Trust (e.g estate planning, asset protection, leaving a family legacy, charitable purposes). The Trust Specialist will offer guidance in this step.

STEP 2: DRAFT THE TRUST DEED

- The founder prepares a trust deed assisted by a trust specialist.

- The deed must include:
    1. Name of the trust
    2. Details of the founder
    3. Details of the first trustees (Note: It is mandatory, in the case of a family trust to appoint an independent trustee – refer Master's Directive 3 of 2017)
    4. Identification of beneficiaries
    5. Powers and duties of trustees
    6. Rules for administration and distribution of income & assets
    7. It is advisable to add a clause to provide for the amendment and conditions for the termination of the trust.

The Trust Deed should comply with current best practice in line with the requirements of the Trust Property Control Act, 1988.

STEP 3: SIGN THE TRUST DEED

The Deed must be signed by the relevant parties.

STEP 4: REGISTER THE TRUST WITH THE MASTER OF THE HIGH COURT

- Submit the Signed deed with relevant supporting documents to the Master of the High Court.
- Once the The Master completed the internal processes the Letters of Authority is issued, empowering the trustees to manage the Trust.

STEP 5: TRANSFER ASSETS INTO THE TRUST

Acceptance of the original donation to the Trust by the Trustees. The Founder must donate the initial asset as per the Trust Deed.

STEP 6: ONGOING ADMINISTRATION & COMPLIANCE

Administration and Compliance commence and include:

- Open a bank account
- Submit beneficial ownership records on the Master's portal
- Register for income tax
- Schedule and execute trustee meetings in line with the trust deed
- Keep proper accounting records
- File annual tax returns with SARS