



What is a trust?

A trust is a legal relationship where a person / company holds property or rights on behalf and for the benefit of another.

What is a trustee?

A trustee is a person / company that is responsible for the administration of the trust as stated in the trust deed.

Is duty payable on the establishment of a trust?

Trust deeds establishing a trust over identified dutiable property are liable for duty.

Trust deeds dated on or after 1 July 2017, which establish a trust over non-dutiable or unidentified property are not liable for duty.

What transaction type do I use when entering the transaction into TRO?

If the trust was declared in Tasmania prior to 1 July 2017 and is over non-dutiable or unidentified property, enter the transaction using the *Basic trust* transfer type (refer to page 2 for more information).

If the trust was declared in Tasmania and is over identified dutiable property and there is no fixed beneficiary of the trust (i.e. a discretionary trust), enter the transaction using the *Trust over property* transfer type (refer to page 2 for more information).

If the trust was declared in Tasmania and is over identified dutiable property and there is a fixed beneficiary of the trust, enter the transaction using the *Trust over property - fixed beneficiary* transfer type (refer to page 2 for more information).

If the trust has been declared over non-dutiable property and subsequently acquires dutiable property, the transaction should be entered using the most appropriate transaction type (generally, this will be a property transfer transaction type). The trust and trustee details should then be entered in the Transferee information screen.

For more information

[Evidence of value ruling](#)

[Documentary evidence requirements guideline](#)

[Duty instrument TRO self-endorsement arrangements guideline](#)



Entering the transaction in TRO

Declaration of trust prior to 1 July 2017

1. On the *Trust information* screen enter the:
 - a. *Trust Declaration date*;
 - b. *Trust name*;
 - c. *Trustee type* and trustee name; and
 - d. Click on *Add this trustee*.
2. Complete the remaining screens.
3. The duty on dutiable value will be \$50.00.
4. Self-endorse the transaction.

The screenshot shows the 'Trust information' form with the following data entered:

- Declaration date: 01/01/2017
- Trust name: Jones Trust
- Trustee type: Individual
- Surname: Jones
- First name: Mary
- Other given names: (empty)

Buttons at the bottom: **Add this trustee** and **Cancel this trustee**

Declaration of trust over property

1. Enter the trust information on the *Trust information* screen (as outlined above).
2. Enter the details of the settlor on the *Settlor Information* screen. If the settlor is the same as the trustee, you can select *Populate from transferee* from the *Entity type* drop down box.
3. Enter the *Property Information*.
4. Complete the remaining screens.
5. The dutiable value will be the greater of the consideration and the unencumbered value.
6. You are required to submit this transaction type to the SRO for approval. Ensure all supporting evidence is attached. This can be done either through the add file function when submitting the document or via the *Duty transaction mail* function. Note the combined file size should not exceed 50mb.

Declaration of trust over property - fixed beneficiary

1. Enter the trust, settlor and property information as outlined above.
2. Enter the details of the beneficiaries on the *Beneficiary Information* screen.
3. Complete the remaining screens.
4. The dutiable value will be the greater of the consideration and the unencumbered value.
5. You are required to submit this transaction type to the SRO for approval. Ensure all supporting evidence is attached. This can be done either through the add file function when submitting the document or via the *Duty transaction mail* function. Note the combined file size should not exceed 50mb.



Frequently asked questions

Q Who is the settlor?

A The settlor is the person who settles the trust. This may be the same person as the trustee but will never be the same person as the beneficiary.

Q What is the difference between a Declaration of trust with a fixed beneficiary and a Declaration of trust without a fixed beneficiary?

A A trust with a fixed beneficiary, names all of the beneficiaries. For example, if John Smith and his daughter, Mary Smith, were fixed beneficiaries of a trust they would be named in the trust deed.

A trust without a fixed beneficiary will name some beneficiaries and describe other beneficiaries. Using the example above the beneficiaries may be listed as John Smith and any child of John Smith.

Q In March 2020, I have declared a trust over \$10. My intention is to purchase property in the name of the trust within the next 12 months. Is the declaration of trust dutiable?

A No as the trust has been declared over non dutiable property the declaration of trust is not dutiable. When the trust purchases property it will be entered into TRO under the *Property Transfer* transaction type.

Q I have declared a trust over a property but the settlement of the property has not yet occurred. Is this still a dutiable transaction?

A Yes. The dutiable transaction occurs at the time the trust is declared over the property regardless of whether the purchase of the property has settled. Duty will be calculated on the greater of the consideration and the unencumbered value of the property.

A second dutiable transaction occurs when the settlement of the property has finalised. This transaction will be assessed in accordance with section 16 of the *Duties Act 2001*.

Q I have an unnamed bare trust. What should I enter in the Trust Name field?

If the bare trust is unnamed enter the property address and bare trust into the Trust Name field. i.e. 4 Salamanca Place, Hobart Bare Trust.

Q I need to submit the transaction to the SRO for assessment. The supporting evidence is quite large. Am I still able to attach it to the transaction in TRO?

A The combined file size of attachments should not exceed 50mb. If your documents do exceed this limit you should upload the documents in smaller batches using the transactions mail function.