

Reference is made to your request for the personal details of the settlor for the [please insert the name of the trust]. We are aware that this request arises due to your need to comply with The Foreign Account Tax Compliance Act. Under that Act, a settlor of a trust is deemed to be a controller of that trust and, therefore, needs to be identified.

In Australia, the role of a settlor is markedly different to the role of a settlor in other countries. In Australia, the person who acts as the settlor of a settled trust:-

- has no right to vote on any matter, or to control or replace the trustee;
- has no ongoing function, power or rights of any kind relating to the trust;
- is incapable of receiving any benefit, financial or otherwise, from the trust at any time.

In this case, the settlor was simply an employee of the supplier at the time the trust deed was prepared. It is inappropriate to ask for the personal details of the settlor for this trust given the absence of any ongoing relationship with the trust.