

GIFT DUTY

After some lobbying by interested groups and some thought the Government has announced its intention to do away with gift duty. It is not going to happen immediately but is likely to be effective perhaps late in 2011.

At this time an individual can make a gifts or gift not exceeding\$27,000.00 in one year. If the total gifts exceed that figure gift duty is payable. In recent years the Government has been receiving only about \$1.5 million in gift duty annually.

When gift duty is abolished it will be possible to make gifts of any amount without incurring a penalty. So where some-one wants to hand over the family property it will not be necessary to sign acknowledgements of debt and write-off the debt over a period of years. The deeds of acknowledgement of debt may still be required if it is intended that the transferee is to be indebted to the transferor for the consideration in the agreement for sale and purchase. It has also been common practice for a property owner to set up a Trust, transfer his/her property to the Trust and write-off the purchase price over a period of years.

The abolition of gift duty in these instances will have the effect that the IRD has no overseeing role in trust administration thus making the workings of trusts more secret than they are now. No doubt the working party on Trusts will be having regard to the effect that the abolition of gift duty will have on trusts and will make recommendations to the Government in its report.

Doing away with gift duty also has major implications for those who require rest home care. WINZ will surely be looking at all of an applicant's affairs to ensure that they have not impoverished themselves in order to get a subsidy.

Similarly with Working For Families qualifications and other social benefits, IRD and WINZ will be having close scrutiny of all applicants' assets and liabilities which they have divested themselves of to a trust.

So while it may seem to be a small change to our laws, it has far-reaching consequences for many. Perhaps the whole trust system will be changed forever over the next year or so. We live in interesting times!

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