



New opportunities with law changes

Welcome to the first edition of Quay Legacies – our newsletter to keep you informed on particular legislative changes and opportunities to maintain and build your legacies and achieve your dreams.

As always, this material is general and we recommend that you always check with your professional advisers *before* making any key decisions.

With regards

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Gift Duty abolished - what now?

Parliament recently passed legislation to remove Gift Duty which effectively means that the historical gifting limit of \$27,000 per annum no longer applies, and gifts of greater than this amount are able to be made in one lump sum without any liability for Gift Duty.

The removal of Gift Duty should be a signal for everyone to review their estate/trust plans and to consider

how the new gifting rules will help achieve their estate and trust planning objectives.

While there may be new planning opportunities for you, there will also be more opportunities for other parties to attack your trust should they consider they have been disadvantaged by your actions, so proper planning and the seeking of professional advice is essential.

Why did you set up a Trust?

- To protect your assets from creditors.
- To preserve value for future generations.
- To protect your assets from relationship property or family claims.
- To protect your assets from the Government.
- To maximise any benefits you may be entitled to.
- To facilitate the transfer of assets to beneficiaries on your death.

When reviewing the amount to gift you need to consider the following points:

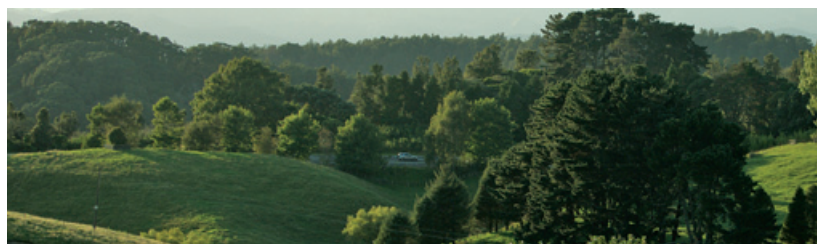
Creditors. They may be able to claw back the assets if they can show that there was an intention to defeat creditors, if you knew you were insolvent at the time of any gift and if there were transactions which were undervalued. If asset protection is an issue for you, don't wait until you can see problems on the horizon, **act now.**

Relationship Property. There is an ability for a spouse or partner to claim

back assets where there is an intention to defeat any claim by them. Before you enter into a new relationship you should seriously consider a relationship property agreement.

GST and Income Tax. Where new property is to be transferred to your Trust there may be significant GST and income tax issues which you will need to discuss in advance with your financial adviser.

Residential Care Subsidies. This has been a major motivating factor for some people to form a Trust. The Government has always had power to disregard gifts made during the period prior to a claim for a subsidy and to apply an assets test. The current Government policies and regulations allow applicants to gift up to \$6,000pa for the last five years prior to rest home application and up to \$27,000pa prior to that 5 year period. Making only one major gift may disadvantage the donor.



Correct management of a Trust

The new gifting rules make proper trust management even more important. If there is an opportunity for a third party to attack a Trust, it is made much easier for them if the Trust is not properly managed.

It is essential that Trustees **meet at least annually** and in particular before the annual accounts are finalised to review the Trust's affairs and approve income and capital distributions to beneficiaries.



Appointment of a Trustee

It is also necessary to review who has the power of appointment of Trustees, both now and in the future:

- Does your spouse/partner have the authority to appoint a Trustee on their death?
- What are the consequences of your partner/spouse appointing a replacement Trustee on their death?
- Is it desirable to appoint other beneficiaries as Trustees?

What should you do now?

There may be other issues to be considered and it is essential, even more than ever, that you get **proper professional and financial advice** based on your individual circumstances *before* making decisions affecting your Trust and gifting programmes.

We are offering all clients a complimentary meeting to give

you an overview of the rules, the changes, and to discuss particular matters that need addressing.

To book your complimentary meeting with one of our specialist team members in Whakatane or Tauranga, call **Jeanette** on 07 578 6069 or email jeanette@qal.co.nz and arrangements will be confirmed.



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