Pave the Way Newsletter Insert – December 2008

Update on Special Disability Trusts

Recommendations for change by Senate Standing Committee on Community Affairs

In a number of Pave the Way newsletters we have written about Special Disability Trusts, including an inquiry conducted by the Senate Standing Committee on Community Affairs. Following its inquiry, the Senate Committee published a report, *Building Trust: Supporting Families through Disability Trusts*. The report was published on the Committee's website on 16 October 2008.

The Senate Committee was critical of many aspects of Special Disability Trusts (SDTs) and made wide-ranging recommendations for change. The Senate Committee urged the Commonwealth Government to adopt its recommendations and introduce the necessary legislative changes "as a matter of urgency".

<u>In summary, the Committee made the following recommendations</u>:

1. The definition of "severe disability" should be widened:

    - by <u>removing the requirement</u> that the beneficiary's "care" needs are such that someone caring for them is eligible for the carers payment or carers allowance, or that they are living in a government funded institution, hostel or group home;

      <u>and</u>

    - by <u>including provisions</u> which ensure that people with intellectual disability or mental illness can be eligible beneficiaries.

    [*Other current requirements, that a beneficiary aged 16 or over must be eligible for the Disability Support Pension and also not be able, or likely, to work for award wages, would remain unchanged*.]

2. The asset value limit of a SDT should be increased from $500,000 (indexed) to $1,000,000 (indexed), with annual indexation being linked to "ordinary investment returns" or CPI, whichever is higher.

3. The gifting concession should be indexed, as in "2." Above. If there is no improvement in the uptake of SDTs after 2 years, further options to expand the eligibility for the gifting concession should be looked at.

4. Tax arrangements should be changed so that:

    - property owned by a SDT and occupied by the beneficiary is capital gains tax exempt;
    - transfers of assets into a SDT are capital gains tax and stamp duty exempt;
    - unspent income from a SDT is taxed at the beneficiary's personal income tax rate.

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5. The allowable use of SDT funds should be extended to cover “all day-to-day living expenses”, to maximize a beneficiary’s health, well-being, recreation and independence, rather than being limited only to “care and accommodation” as at present.
6. Unexpended SDT funds should be able to be contributed, on a pre-tax basis, to a superannuation fund for the beneficiary.
7. Where a SDT is used to purchase the first home for a trust beneficiary, the First Home Owner Grant should apply.
8. The Commonwealth Government should look at other ways to support families, including providing low-cost legal and financial advice and long term planning assistance.
9. Audits of STDs should be restricted to one per year.
10. Two SDTs should be allowed per eligible beneficiary, rather than only one SDT per person as at present.
11. Centrelink should promote an understanding of SDTs to families.
12. Training packages, which focus on future planning and SDTs, should be developed to train legal and financial advisors.
13. A different name, such as “disability support trusts”, should be considered.

Pave the Way welcomes these proposals and urges all interested families to discuss these needed reforms with their local politicians.

Copies of the Senate Committee’s Report are available at the Committee’s website: www.aph.gov.au/Senate/committee/clac_ctte/disability_trusts.

For further information about these proposed changes, contact Jeremy Ward at Pave the Way on 1300 554 402 or (07)3291 5800, or email jeremy.ward@mamre.org.au

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