

Viewpoint

Autumn/Winter 2011

The newsletter for Australian Executor Trustees Limited clients



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Estate planning for families with a child with special needs

While it's important for every family to have an estate plan in place, it becomes imperative if you have an intellectually disabled child or a child with special needs. Tailored estate planning advice can help ensure that, after you've gone, your child continues to be looked after the way you want. There are a number of estate planning strategies that can help parents and grandparents protect the interests of a child or grandchild (both minors and adults) with Down Syndrome, autism, cerebral palsy or the after effects of an accident or injury, to name just a few.

Simply leaving money, or the balance of an estate, to an intellectually disabled child may not provide them with adequate financial support for the rest of their life. It could, in fact, be more harmful than beneficial as it may disqualify them from receiving financial support from the Government. A trust established in a parent's or grandparent's Will, however, can be more useful when dealing with the future needs of a disabled child.

A special disability trust

A special disability trust can be set up via a Will or a Deed, however, this type of trust only provides for the care and accommodation of a child with a 'severe' disability', as defined by the law.

For pension purposes, the assets within this type of trust (up to the value of \$563,250, as well as a main residence, and any income earned from these assets) are exempt from means testing by Centrelink and the Department of Veterans' Affairs. The trustee of the trust, however, must either be a professional trustee company, like AET, or at least two Australian resident individuals who are willing and competent to take on this crucial role for many years to come.

A protective trust

A protective trust, also known as a special needs trust, can also be established under a Will. This type of trust is suitable for families with a child who has not been assessed as having a 'severe' disability. While a protective trust provides for the care and accommodation of the child, it can also extend to providing financial support for their quality of life including recreation, holidays and travel expenses. Unlike a special disability trust, a protective trust can also support any children that the beneficiary may have. Assets and income of the trust, however, will be included in Centrelink and the Department of Veterans' Affairs means testing calculations which, therefore, means they may be disqualified from receiving any financial assistance from the Government. The trustee may be an individual or individuals (usually family members) or a professional trustee company like AET.



My view

Continuing to provide valuable service

I'm delighted to have recently been appointed as General Manager, Trustee Services for AET. Having worked as Head of Product and more recently as General Counsel for AET, I understand the importance our services play in the lives of our clients and I'm proud of the work we do.

After 14 years with AET, Andrew McLachlan has left the company to pursue other opportunities and he continues to serve his country in the Army Reserve. We wish him all the best in his future endeavours and recognise Andrew's outstanding contribution to AET, in particular during the past six years as CEO.

Last year AET celebrated 130 years of providing trustee services. We remain committed to providing highly personalised fiduciary services for our clients and to working in partnership with our clients' trusted advisers, to help you, your children and the generations to come.

This edition of Viewpoint concentrates on some of the ways we can help families with disabled children plan financially for their ongoing care and welfare.

We'd also like to tell you about some of the worthwhile charities we've supported recently and to highlight the valuable work that their members continue to carry out within their communities. I hope you will find it informative as well as enjoyable.

If there are any estate planning questions you would like answered, please read our 'Ask AET' section to see if it's a question that's been shared with others, or if you would like to consult one of our Estate Planning Specialists, please call us on 1800 882 218.

Gary Riordan

General Manager, Trustee Services

Estate planning for families with a child with special needs cont...

Using both trusts together

Both trusts can operate concurrently for the benefit of a disabled child. For example, the special disability trust can be established solely for their care and accommodation needs. It can also hold the main residence and/or investments up to the pension means-tested exemption level. The protective trust, on the other hand, could be set up to hold fewer funds and be used to meet the recreation expenses, while still allowing the child to benefit from other Government subsidies.

Superannuation

Under both of these structures, superannuation can provide significant benefits to an intellectually disabled child. The trustee of a superannuation fund may pay death benefits as a lump sum or as a pension/annuity. A lump-sum death benefit can be used to fund a special disability trust and/or a protective trust as mentioned above. Generally, these types of payments are tax-free when received by the trusts.

Alternatively, the death benefit may be paid directly to the child. If the child was financially dependent on the deceased, eg a disabled child (including an adult child), the death benefit payment will also be tax-free. Generally, a deceased member's superannuation pension/annuity must be cashed in by a child when they turn 25 years of age, however, this rule does not apply if the child is assessed as having a 'disability' under superannuation law. The disabled child will receive the pension on the same terms as the deceased member for the rest of their life.

The importance of choosing the right trustee

When considering these strategies, it's important to understand that these types of trusts need to be maintained for the lifetime of the child, so careful consideration needs to be given to the choice of trustee. The trustee needs to be sympathetic and understanding towards the needs of the disabled child; they need to establish and maintain long-term investment strategies and they also need to handle the ongoing requirements of the child as they arise. Selecting a professional, independent trustee company, like Australian Executor Trustees, gives the family certainty and peace of mind that their child or grandchild will be well looked after financially for the rest of their life.

An Estate Planning Specialist can work with your other trusted advisers, such as your accountant and financial adviser, to implement the most appropriate estate planning strategy for you and your family's circumstances.

Charitable giving continues to enrich lives

Charitable giving and philanthropy are the life blood of many great causes improving the lives of hundreds and thousands of Australians as well as communities worldwide.

Last year, Australian Executor Trustees Discretionary Charitable Trusts made a grant of \$25,000 to Kidney Health Australia to finance a respite camp for kids with serious kidney illness. The 'Kidney Kids National Respite Support Initiative' focuses on children in the final stages of chronic kidney disease.

"These children, being kept alive on dialysis, attended a five day retreat. It gives them, and their parents, the respite they need from the daily struggles associated with simply staying alive. It also helps the children build peer relationships with others 'in the same boat.'" said Marie Kosicki, Kidney Health Australia.

Kidney Health Australia is a not-for-profit organisation that focuses on improving kidney health outcomes to substantially improve the quality of life for people living with kidney and urinary tract diseases, their families and their carers. There are two million Australians who don't know they have early kidney damage. The initiatives developed by the Kidney Health Australia team aim to reduce the incidence of kidney disease in the Australian community, ultimately reaching these people.

The Kidney Health Australia's health education and consumer programs include:

- Kidney health education programs
- Advocacy and consumer participation
- Kidney Health Information Service – a telephone support service for people living with and/or affected by kidney and urinary tract disease
- Kidney Connect – a support program for people with kidney disease, kidney donors and recipients, their carers and family members. Programs include the Camps, Capers and Activities Program.

The work of Kidney Health Australia, like many charities, is funded solely by the Australian community's generous giving, funds from bequests and philanthropic trusts as well as corporate donations.



To find out more about Kidney Health Australia or to make a donation visit their website at www.kidney.org.au

To find out more about bequests and philanthropic trusts please call us on **1800 882 218** or speak to your financial adviser.



Robert Monahan, Estate Planning Specialist, Estate Planning

Ask AET

Can you leave your superannuation to whoever you want?

When you die, the balance of your superannuation is paid out in accordance with the rules of your super fund. Bear in mind that in Australia there are 457 major superannuation funds and over 428,000 self-managed superannuation funds... and each fund has its own rules. There is, however, Government legislation that stipulates who can receive your superannuation death benefit. An important part of the estate planning process is to understand the rules of your super fund, to ensure that the death benefit ultimately gets paid to the beneficiary(ies) you choose. This often means that the benefits are paid to your estate and then dealt with by your Will.

What happens to your superannuation pension when you die? Can it pass to your adult children?

Generally, no. While a pension can continue to be paid to a surviving spouse, it cannot be paid to an adult child. It can be paid to a 'dependent' adult child, but the pension must be cashed in once they turn 25 years of age. If, however, the adult child suffers from a significant disability, then the pension can continue.

If you have a disabled child or grandchild, how can your super benefit them?

The normal rule that a pension has to be cashed in by a child at age 25 does not apply if the child satisfies the 'disability test'. The disabled child receives the pension on the same terms as the deceased member. This means that, if the deceased member was aged over 60 years and receiving a tax-free super pension, the disabled child (or disabled dependent grandchild) will also receive the pension tax-free for the rest of their life. The tax-free status applies regardless of the age of the disabled person. Over the long term, this can be a great advantage to a disabled person.

How can an AET Estate Planning Specialist help you?

As part of the estate planning process, your AET Estate Planning Specialist will discuss your assets, including superannuation. This will include identifying:

- the superannuation fund/funds you hold
- if a death benefit is payable by the fund on your death
- if the rules of the fund allow you to direct the payment of your super benefits to your chosen beneficiaries (via a binding or non-binding death benefit nomination)
- the possible tax consequences of your super death benefit payout after your death
- if you have a disabled beneficiary, whether your super can be structured to provide an on-going pension income for the benefit of the beneficiary.

If you would like to find out more about estate planning for families with a child with special needs please call us on 1800 882 218 or speak to your financial adviser.

The Boomerangs always come back!

In Port Augusta, Whyalla and the northern region of South Australia, Australian Executor Trustees is proud to be increasingly active in the provision of trustee services to support specific Aboriginal charitable projects.

In November 2010, the Port Augusta 'Boomerangs' under 14 boys basketball team competed at the National Aboriginal & Torres Strait Islander Basketball Association championships held in Melbourne. Descendants of the Kuyani, Bungarla, Kokatha, Deiri, Adynamathanha, Luritja, and Yankuntjatjara groups, the team was a group of boys from the Davenport Aboriginal Community in Port Augusta. As part of our involvement with this community, we sponsored the Boomerang uniform.

The competition was fierce and the scores close, with the Boomerangs finishing third, losing in the semi-finals by only one point... on the buzzer. The boys played well and, as a result of our support, were able to purchase the uniforms which are now being used in the local Port Augusta competition.



The Port Augusta Boomerangs compete in the semi-finals



Aziel Stuart puts in a strong performance

Answers to your questions

Do you have an estate planning question you'd like answered?

If so, please call us on **1800 882 218** or email **webmaster@aetlimited.com.au**

Your question, answered by one of our Estate Planning Specialists, could be printed in the next edition of Viewpoint.

Australian Executor Trustees has one of Australia's largest and most experienced teams of estate planning professionals. For further information, **speak to your financial adviser or contact your local Estate Planning Specialist.**

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