

BIZTAX ALERT



BIZTAX ALERT | Spring • 2018 Issue

OUR NEWSLETTER FOR GROWING BUSINESSES



THE TRUST ISSUE

Do you have a family trust? Thinking of forming one as a way to future-proof your assets for you and your children? Take note - the Trustee Act is getting a makeover. While there are still a few parliamentary hurdles to jump, now's the time to get your head around what the new bill will mean for you and your business.

IN A NUTSHELL

Last August, a new Trusts Bill was introduced to Parliament - the first big change to New Zealand's trust law in more than 60 years. With up to 500,000 trusts operating in our country, they are an essential part of our legal system but the current legislation is no longer cutting it.

The current Act: Narrow in scope, expensive and too complicated.
The proposed bill: More efficient, better guidance for trustees and beneficiaries and easier to resolve disputes.

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HOW WILL THE ACT CHANGE MY ROLE AS A TRUSTEE?

Up until now, a trustee's job description has been clear as mud with many families getting into strife unaware of their trustee's responsibilities. If the new bill comes into place, a trustee's role will be clearly outlined, and include:

- Knowing the terms of the trust
- Acting according to the terms of the trust
- Acting honestly and in good faith
- Acting for the benefit of the beneficiaries or the permitted purpose of the trust
- Exercising trustee powers for a proper purpose.

WHAT CHANGES WILL AFFECT MY BUSINESS?

#1 Extending perpetuity laws

At the moment, when you set up a family trust, it has a time limit of 80 years. Then you have to wrap it up and distribute the assets. The new legislation suggests extending it to 125 years, which may involve significant succession planning adjustments.

#2 More information access for beneficiaries

In its draft form, the Trusts Bill proposes to give most trust beneficiaries the legal right to financial reports on the state of the family trust – meaning they'll be able to request more information including 'who's getting what'. Whether beneficiaries have the right to request this information under our current law is a bit of a grey area.

Because this potentially opens a can of worms for trustees, this proposal has been controversial and has attracted a lot of feedback from trust advisers. We will have to wait until later in the year to see what changes (if any) are made to this proposal.



I HAVE A FAMILY TRUST, WHAT DO I NEED TO DO?

Get your paperwork in order: Document your trust actions carefully (if you don't already) and make sure they're accurate.

Revisit your succession planning: Talk to us to make sure your succession plans still make sense if this legislation goes through.

Review your trust: There might be opportunities to improve your tax structure, reduce your risk profile and better your family's financial situation.



TO CLAIM OR NOT TO CLAIM?

Planning a summer business trip with a personal holiday tacked on the end? Renting out the bach and unsure what expenses can be claimed? Whatever your situation, we want to make sure you're getting the expense claim tax break you're entitled to.

Here's the lowdown on legal costs for trust admin, travel expenses, mixed-use assets and sponsorship.

FACING A LEGAL BILL FOR YOUR BUSINESS OR TRUST? GOOD NEWS.

Generally speaking, you can deduct any business-related legal expenditure carried out by your company and/or trust if total legal expenses incurred are less than \$10,000 in a tax year.

Examples of deductible claims include: expenses relating to protecting trade secrets of the business, opposing the extension of a competitor's patent, defending an allegation of an infringement of copyright, defending traffic infringements brought against company employees while on company business, and costs for appointing company directors.

TRAVEL EXPENSES – WHAT CAN I CLAIM?

If your business involves hitting the road, you can claim business travel as an expense. The best way to prove the business portion of your travel expenses is to keep a diary of your travels. Hang on to your itinerary, invoices and tickets. Jot down the reasons for the trip, date of the trip, and costs of any car hire, air/bus/taxi fares, accommodation, meals and incidentals, as well as the time spent on business and non-business activities.

Mixing business with pleasure? If your trip contains a private or capital element you can claim a 100% deduction (where the holiday aspect is incidental to the work element) or an apportionment (where there are two purposes for the trip, both truly separate). If the work side of things is just incidental to the holiday, no deduction can be made.

IS A FAMILY TRUST RIGHT FOR ME?

Family trusts are a popular way to protect and manage your assets, such as the family home, for you and your family, now and in the future. They can have a valuable role to play, but they're not suitable for everyone. Here are the pros and cons of family trusts to help you decide if it's worth investigating further.

FIVE GOOD REASONS TO FORM A FAMILY TRUST

1. Protect your assets against claims and creditors in the event of business failure or a lawsuit.
2. Set aside money for special reasons, such as a child or grandchild's education.
3. Ensure your children, not their partners, keep their inheritances.
4. Protect your children from squandering assets or falling prey to financial scams before they've gained sufficient life experience to make sound decisions.
5. They have a life of up to 80 years (or 125 years under the new bill) unless it's wound up and distributed earlier.

THREE DISADVANTAGES OF SETTING UP A FAMILY TRUST

1. Transferring your personal assets to a trust means you lose complete ownership and it will be the trustees' responsibility to control them.
2. The time and cost involved in setting up a trust and meeting its annual accounting and administrative requirements.
3. Disgruntled beneficiaries have the power to sue trustees where trustees have acted in breach of trust. While it's not common, it is happening more often.

WHAT'S NEXT?

Get professional advice from the start. We can answer any questions you have about trusts, being a trustee, administering a trust deed, and the proposed new Act. Contact us today to book an appointment to discuss.

GOT A BACH? CLAIM AWAY.

If your holiday home is being used privately and for income-earning purposes (and is also unused for 62 days or more) you can claim mixed-use expenses. There are three categories to be aware of:

Fully deductible expenses: You can claim 100% of any expense solely for the income-earning use of the asset. For example, costs of advertising for tenants for your bach.

Non-deductible expenses: You can't claim any expenses for the private use of the asset. For example, the cost of a jetski stored in a locked garage that's unavailable to bach renters. You also can't claim expenses such as improvements (adding on a carport, or upgrading the bathroom).

Apportioned expenses: If an expense relates to both income-earning use and private use, you need to apportion it using this formula:

$$\text{Expense} \times \frac{\text{income-earning days}}{\text{income-earning days plus counted days (private)}}$$

These rules can be a little complicated, especially if a company is involved in the mix, so it may pay to come and have chat to sort out how they apply to your business specifically.

WHEN IS SPONSORSHIP FULLY DEDUCTIBLE?

For sponsorship to be fully deductible, your business must be promoted and any element of private enjoyment must be incidental.

Sponsorship examples that are fully deductible:

- Sponsoring \$2,000 towards the local hockey team's new uniforms and in return, the team agrees to display your business logo on the uniforms.
- Sponsoring \$10,000 towards the Taupo Relay for Life and in return, the organisers agree to advertise your business across all promotional materials.



BUSINESS HEALTH CHECK

Check your expenses and save

Know how much you're spending on printing, advertising, and taking clients out to lunch? Or does it come as a shock when you do your GST returns? If your company is growing, your expenses may too, but in some cases it could be a lack of attention causing spending to creep up. Take a few minutes this week to track your expenses and see where you can save money.

Our three top 'money-saving' tips

1. Ask yourself 'Do I need to be spending that much, on that?'. Maybe it's time to see what other suppliers are out there.
2. Invest time with us to discuss any concerns.
3. Look out for the best deals on office expenses and buy in bulk at a cheaper price.

THINK BEFORE YOU LEAP: WHAT ARE MY RESPONSIBILITIES AS A TRUSTEE?

Whether you're thinking of becoming a trustee for your own family trust or someone else's, it's important to know your obligations under the current law before accepting the role.

8 things to know before becoming a trustee

1. It's a legal responsibility with a lot of work involved (most often voluntary) and you could end up being liable for losses made by the trust if you don't do the job properly.
2. You're in it for the long haul - some trusts have a set end-point, ie: when a child turns 18, but others can go on for over a century.
3. You must know and understand the trust deed, all associated documentation and the trust's property, assets and liabilities.
4. You've got to stay impartial when managing or distributing trust property to beneficiaries - no favourites!
5. You have to ensure all relevant documentation with regard to the trust's assets are signed by all trustees, not just the 'Mum and Dad' of the trust (check the trust deed, though, in case it says otherwise).
6. Trustee decisions usually need to be unanimous (unless the trust deed says otherwise). So you need to be sure that you can work well with the other trustees before taking on the job.
7. You must actively participate and make all the decisions - no delegating or relying on others to do your job.
8. Paperwork will be your friend - keeping accurate accounts and recording all trustee decisions as requested by beneficiaries will keep you out of deep water.

KEY TAX DATES

DATE	CATEGORY	DESCRIPTION
20 Sept	PAYE	Return and payment
20 Oct	PAYE	Return and payment
28 Oct	Provisional Tax	May balance dates
28 Oct	GST	Return & Payment for September
20 Nov	PAYE	Return and payment

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