e-flash

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Trust eSpeaking

Budget 2010

"Trusts have an important role in our economy, but this should not be driven by tax advantages," said the Hon Bill English in his Budget address.

In the lead-up to the 2010 Budget delivered on 20 May, some commentators believed that trusts, and the way that trusts operate, may be targeted. Indeed Mr English's comments in the Budget address also suggested this. This has proven not to be the case, with no special announcements made which directly affect trusts per se.

Lowering of the top personal tax rate

The one exception to Mr English's opening comments is the reduction in the top personal tax rate to 33%. This will affect the way that some trusts operate, especially those in which income from a key earner who was otherwise paying tax at the top tax rate was able to channel these earnings into a trust.

The government had indicated in the lead-up to the Budget that it was concerned to ensure that the top tax rate equated with the trust tax rate to encourage fairness in the tax system. The top income earners who have been transferring a portion of 'their income' to a trust will need to determine whether this strategy is still required. At first glance it may not be so beneficial; however there are still some reasons that may encourage the payment of income to trusts.

Trust benefits

First, allocating income to a trust results in the wealth of the trust increasing, rather than the individual. This brings into play all of the other benefits of having assets in trusts – the protection of assets from business risk, assessments and relationship break-ups, asset testing, providing for your children and grandchildren, and a plethora of other advantages.

Second, the government has indirectly assisted trusts by reducing the lower income tax rates. These rates have reduced from 1 October 2010 to 10.5% for income up to $14,000, 17.5% for income from $14,001–$48,000 and 30% from $48,001–$70,000. Income received by a trust can be transferred by the trustees to beneficiaries who are on lower tax rates during the income tax year in which the income is earned, or within 12 months following the end of the income tax year (subject to certain provisos). This can result in the tax on many trusts' income being distributed to lower earning beneficiaries at substantially less than 33%.

If you require further information or would like to talk with us about the comments in this e-flash, please do not hesitate to contact us.

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