Testamentary Trusts – An Introduction

Income Splitting with A Testamentary Trust

A Testamentary Trust provides tax advantages through income splitting.

This occurs because the tax legislation provides that income and capital gains derived by children under the age of 18 years from assets received as a result of a Will are not subject to penalty tax rates. Children who benefit under a Will are taxed at the normal marginal rates.

This has the following significant tax advantages:

- Each child has a tax-free threshold of $18,200. Taxable income above $18,200 is then taxed at the usual marginal rates. Imputation credits attaching to franked dividends received can be effectively used by the child.
- The main advantage of using a discretionary, testamentary trust for bequeathed assets is that any income gains, capital gains and franked dividends can be distributed among all the family beneficiaries each year in the most tax-efficient way.
- The tax concessions do not apply solely to income and capital gains derived by the trust from inherited assets. They also apply to any income and capital gains derived from assets acquired from the reinvestment of moneys received from the original inherited assets.
- There is no legal limit to how many testamentary trusts a Will can establish. In many instances, a Will would establish a separate testamentary trust for each primary beneficiary.

Level 15, 45 Pirie Street Adelaide SA 5000 GPO Box 639 Adelaide SA 5001
T 08 8210 1200 F 08 8210 1234 www.normans.com.au

Norman Waterhouse
SINCE 1920 LAWYERS