



**SUBMISSION
TO THE
SAVINGS WORKING GROUP
TREASURY
ON
SAVINGS THROUGH EDUCATION TRUSTS**

2 DECEMBER 2010

Introduction

1. This Submission is from Trustee Corporations Association of New Zealand Inc ("TCA"). We are available to meet with the Savings Working Group to discuss our Submission.

We can be contacted at:

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2. TCA is a long established voluntary association to which all Trustee Corporations belong. The members of the TCA are Public Trust and each of the Trustee Corporations authorised under the Trustee Companies Act 1967 to act as Corporate Trustee for financial products – being Trustees Executors Limited, The New Zealand Guardian Trust Company Limited, New Zealand Permanent Trust Limited (wholly owned by Public Trust) and Perpetual Trust Limited. Covenant Trustee Company Limited, although not authorised under the Trustee Companies Act 1967, is an associate member of the TCA.
3. TCA maintains relationships with government ministries, regulatory bodies and financial sector groups. TCA sets minimum standards as practice guidelines for the performance of Corporate Trustees – standards for integrity, competence, financial capacity, internal controls, powers and duties, standards for conflict of interest management and for reports from scheme operators.
4. Trustee Corporations are most often associated with drawing up wills and trusts, putting into place enduring powers of attorney and handling estates, a service known as Personal Trusts. TCA contends that its members are uniquely qualified to fill this important role which requires independence, experience, professionalism, and above all, a focus on investor and beneficiary protection.
5. TCA members also provide prudential supervision of a wide range of investment products and financial arrangements in a number of ways and at various levels. In certain instances, fund managers must appoint a Corporate Trustee to meet regulatory requirements before they can offer a financial product to the market.
6. Where a Corporate Trustee has been appointed in relation to a financial product, investors can take comfort from the fact that a competent, independent and professional organisation is there to supervise their interests. As at 30 June 2010, total Personal Trusts (excluding agencies and administrations) under supervision exceeded 26,400 with a value in excess of \$6.3b. Corporate Trust funds under supervision exceeded \$159b.

TCA's Submission

Issue

New Zealanders who save for life events such as their education (or funerals) by setting aside money in trust suffer a tax disadvantage.

Background

Trusts that are used as a savings tool for a minor's education ("education trust") have the income taxed at the trustee rather than the beneficiaries' marginal tax rate. The trustee rate is now aligned to the top marginal tax rate whereas many of these beneficiaries may be on a 10.5% tax rate.

This is a disincentive for parents to use a locked in savings vehicle to save for their children's education, especially when there is an interest free student loan scheme available.

TCA believes that to encourage parents to save for their childrens' education the Income Tax Act 2007 ("the Act") needs to be amended so that beneficiaries of education trusts are able to be taxed at their marginal tax rate. Criteria could be applied to ensure that education trusts didn't become a vehicle for tax planning.

There are similar issues with pre-paid funeral trusts which are also taxed at the trustee rate. When the average funeral costs up to \$10,000 we have heard of families taking out high interest loans from small finance companies (typically operating in low income areas) to pay for funeral expenses.

Amending the legislation so that people have greater tax incentives to save for life events would be in line with this group's mandate.

Submission

TCA submits that amendments are made to the Act so that passive investment income earned by education and prepaid funeral trusts through a portfolio investment entity ("PIE") or a term deposit, may be taxed at the beneficiary's marginal tax rate as a final tax rather than at the trustee rate.

Consultation

We are happy to discuss any of our comments in further detail.

Trustee Corporations Association of New Zealand Inc
2 December 2010