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The Secretary
Senate Community Affairs Committee
PO Box 6100
Parliament House
CANBERRA ACT 2600

Dear Sir

RE: INQUIRY INTO SPECIAL DISABILITY TRUSTS

Thank you for your email of 26 May notifying of a Senate Committee Inquiry.

I note the terms of reference and feel it is worth providing some feedback from a solicitor's office servicing clients likely to benefit from such a Trust.

I practice at Aspley which is in the heart of the northern suburbs of Brisbane. Many of my customers seek advice in relation to Wills, their Estates and Financial and Estate Planning. Also I have a twelve year old daughter with Down Syndrome and Autism with high care needs. I have been actively involved in the area of disabilities spending two terms as Vice Chairman of the Down Syndrome Association of Queensland.

My submissions are firstly in relation to number 2(a). I note only 22 Trusts have been established. This would mean trusts known to Centrelink. There would be others such as Testamentary SDT's which will only become active on the death of the settlor.

I have already included two SDT's in Wills for two separate families. I have at least two other families for whom I expect there will be SDT's created in their Wills and I have had a number of enquiries from other families. I anticipate the time frame for these to become more widespread more like 25 rather than the two years.

In relation to barriers I encountered one family who had a Trust in place prior to SDT's becoming available. The wording of it is quite specific and it isn't possible to amend it so it becomes eligible as a Special Disability Trust.

I can see a need for legislation that will permit trustees to resettle a Trust to allow it to become a Special Disability Trust. It would have to give the trustees powers even if a Trust Deed did not have those powers. It would also have to give them exemption from state stamp duty and Capital Gains Tax. This would be a challenge as such Trust Deeds may have other potential beneficiaries whose interests also have to be protected.

Yours faithfully,
CROUCH & CO

per: Tim Crouch