

Submission to  
Senate Community Affairs Committee  
concerning the  
Inquiry into Special Disability Trusts

*Introduction*

We understand that the Senate Community Affairs Committee will consider submissions in connection with Part 3.18 A of the Social Security Act 1991 that was introduced in 2006, to enable private financial provision for certain people with disabilities.

The question has been asked why so few trusts have been established under this legislation, when there is such an obvious need.

Some unresolved issues remain regarding the conditions under which such trusts can operate, making families wary of embarking on such a momentous step.

We wish to make it clear that we are speaking from the perspective of an adult child in his 40's, with Down's Syndrome and with a moderate to severe intellectual disability.

*Issues in dot form*

\* Restrictions / Lack of flexibility in the use of the trust.

Not everyone is in a position to provide a house for their off-spring and would like the trust to be allowed to use the funds in a variety of ways - to achieve the best outcomes for the person with a disability. For example: Paid carer on a regular basis, equipment to assist with recreation eg three wheeled bike, paid help to assist in pursuing activities - eg woodwork, or artwork at a TAFE, payment to undertake "wellness activities", etc.

\* Tax on unused earnings are said to be 46.5c/\$.

Taxed at the maximum rate? This seems unreasonable. These trusts are designed to aid the individual with a disability and save expenditure by governments at various levels, to assist in providing additional services. This applies particularly to people with an intellectual disability who notoriously lack self-motivation and usually have little or no income beyond the Disability Pension.

\* Indexation of the value of the Trust.

It appears this is not entirely clear. Monetary values change with time and while X amount of dollars at the time of setting up the trust may be adequate, when the families are no longer there to support the individual, the sum set aside may have become totally inadequate.

\* Apparently property purchased initially for a residence is subject to capital gains tax.

The individual may need to move their place of residence - because of transport changes, because their workplace has changed or changed location, relatives assisting the individual have moved or for other reasons. Allowances ought to be made for such or similar circumstances.

\* State rules and Commonwealth rules regarding such trusts need to be compatible. Are they? If not, this requires attention.

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Maida Stern OAM (for contribution to disability services)

*Walter Stern*

*Maida Stern*

13 June, 2008



Addendum to:

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Enclosed please find a submission to the current Senate Enquiry.

After writing it and before posting it, it occurred to us that a more appropriate name for such a scheme might be **Disability Savings Plan**.

The word Trust has specific meanings in legislation and is bound or hedged(?) by a body of legal history, writing and laws. It also implies wealth - which it is not. In this case the word only means that someone has taken responsibility for setting up the savings to be used for the welfare of their loved son or daughter with a disability after they have died.

In a sense what is being proposed is NOT a trust, but rather a scheme of savings established by families, for daily living of their offspring with disabilities, after the parents have died and to provide for them what they have always provided while they were alive.

Could the Senate Committee also address the issue of name? to avoid any confusion that might arise over the use of the word Trust ?

*Walter Stern*

Walter R. Stern

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Maida Stern

13 June, 2008