

Submission to Senate Committee inquiry into Special Disability Trusts

Capital Gains Tax payable when transferring a property to a Special Disability Trust

We wish to raise an objection to the impost of applying Capital Gains Tax when a property that was purchased for someone with a disability is transferred to a Special Disability Trust.

In 1994 when our daughter who is on a Disability Support Pension was married she and her husband who is also on a DSP were clearly not in a financial position to be able to purchase their own home.

In order to give them secure tenancy in their own home, using some of our future retirement savings we purchased a property for them.

As our daughter lacks testamentary capacity we were reluctant and probably unable to purchase a property in her name, so like others in our situation, on professional advice a trust was utilised.

In the past year we have become aware of the Special Disability Trust and our initial reaction was that it may be a suitable vehicle for holding our daughters property and we sort advice on the merits of transferring the property from the trust where it is currently held to a Special Disability Trust.

Any thoughts of making this move however were soon dismissed when it was explained to us that taking this path of transferring the property would trigger a Capital Gain situation and Capital Gains Tax would be payable.

If our daughter and her husband were capable of achieving property ownership by their own means I can assure you they would have done so and it is only due to circumstances beyond their control we have needed to step in and assist them.

We believe the SDT was initiated to specifically cater for the needs of those unable to manage their own affairs and the impost of CGT in this situation when it can be clearly demonstrated that we purchased the home to be our daughters place of residence and not for investment purposes is grossly unfair.