

5 May 2010



General Manager
Business Tax Division
The Treasury
Langton Crescent
PARKES ACT 2600

To the General Manager

Re: Exposure Draft– Changes to the taxation of the unexpended income of Special Disability Trusts

We welcome the opportunity to respond to the exposure draft legislation concerning changes to the taxation of the unexpended income of Special Disability Trusts (SDTs). Carers Australia is the national peak body representing the diversity of Australians who provide unpaid care and support to family members and friends with a disability, mental illness or disorder, chronic condition, terminal illness or who are frail.

Carers Australia believes all carers, regardless of their cultural and linguistic differences, age, disability, religion, socio-economic status, gender identification and geographical location should have the same rights, choices and opportunities as other Australians. They should be able to enjoy optimum health, social and economic wellbeing and participate in family, social and community life, employment and education.

We have had a strong interest in the progression of the Senate Standing Committee on Community Affairs' review of Special Disability Trusts, and the government's commitments to improvements under the 2009-10 Federal Budget, because of the positive outcomes that we believe family carers may experience as a result of improvements to the SDT process.

We believe that the restrictive nature of much of the legislation related to SDTs significantly prohibits a greater uptake of these important arrangements and undermines the initial intention of the establishment of SDTs and value of the trusts for carers of people with a disability.

Arrangements that allow family carers to plan for the financial future of their care recipient are greatly needed. Older carers of adult children are particularly concerned about the future facing their child once they are no longer around to care for them. It is encouraging to see key steps being taken to implement the recommendations of the SDT inquiry and changes committed to in the Budget.

Carers Australia would like to see further, realistic measures considered by government to provide peace of mind for carers and improve their ability to plan for their futures and the future of those for whom they care. There is also no question that measures like SDTs have the capacity to greatly reduce any future burden on the system related to the demand for care.

We would like to express our support for the introduction of the proposed change to the taxation laws for Special Disability Trusts ensuring that they will be taxed at the marginal rate of the beneficiary rather than the top marginal tax rate. This will have important positive outcomes for those already making use

of the Trusts and removes a clear disincentive for taking up the measure. These changes also further support the view of Carers Australia, that Special Disability Trusts should be treated very differently from other forms of trusts with a unique and considered set of and tax arrangements applied to them.

From our perspective, this is a case of logic being applied to an illogical situation that appears to have resulted from a number of factors including a lack of consideration for existing tax regulations on newly introduced initiatives.

The upcoming introduction of legislative changes to address one of the most prohibitive barriers to the Trusts; the lack of capital gain tax exemption for the beneficiary's main place of residence, has also been welcomed by carers.

Further, while we welcome these changes, we would also like to reiterate the importance of a number of measures that have as yet gone unaddressed by the government in relation to these trusts, including

- broadening the definitions of 'approved' care and accommodation expenses
- broadening the definition of a severe disability as set out in Part 3. 18A 1209M. (2) of the Social Security Act to allow more families to utilise SDTs
- allowing compensation payments to be transferred to an SDT when the beneficiary is eligible for a disability support pension.

Greater dissemination of information and resources to inform legal professionals, trust administrators and carers of the existence and use of SDTs is also still greatly needed. Carers Australia believes Centrelink could play a greater role in the provision of this advice to carers. Language can also be a significant barrier and it is therefore essential that any fact sheets or information around the changes are written and communicated in simple, plain English and take account of the needs of Australia's diverse population.

I would like to thank you for your consideration of our comments and would welcome the opportunity to provide further input into further changes to Special Disability Trusts and related taxation law.

Yours sincerely

A handwritten signature in cursive script that reads "J. A. Hughes".

JOAN HUGHES
Chief Executive Officer