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inspiring business

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Gift Duty Considerations

Gift duty is likely to be abolished on the 1st October 2011. The bill to enact this change has passed it's first reading in Parliment.

There are concerns that the abolishment of gift duty will see a significant rise in the creations of trusts and an increase in the number of transfers of assets into trusts. Concerns over social assistance targeting relate to individuals deliberately impoverishing themselves to avoid assets being included in their assessment for social assistance, relationship property or to escape creditor liability. However the IRD deemed these risks as low and have suggested policy changes to counter any abuse of Trusts – such as the Ministry of Social Development taking into account any asset transfers within the past five years of an applicant applying for social assistance. The family courts are also more closely scrutinising trusts with regard to relationship property matters and claimants access to those assets.

Further changes are likely to occur in relation to trusts and the issues around gifting. A Trust Register much like the current Company's Register and requiring trustees to file annual financial statements have been recommended by the Law Commission.

Therefore, the conservative approach has been to continue the gifting programme and when the legislation is enacted review the position then. We prefer to gift now to ensure the opportunity to carry out the original gifting programme is not missed. Any further developments on the proposed legislation we shall continue a watching brief and advise accordingly.

Hamish Pryde
Director

8 April 2011