THE WHEELS NOW IN MOTION FOR FAMILY TRUST CHANGES

With the Government set to impose a minimum 30% tax on discretionary or "family" trusts from 1 July 2028, it's probably time to start thinking about what you should do about any existing family trust you have.

And this could include giving serious consideration to what may be involved in using the proposed concessions to roll-over assets into a different entity such as a company or fixed trust.

Although the start date is two years off (1 July 2028) it will come upon you quickly – hence the need to start thinking about things now, especially as the Government has now released its first consultation paper on the matter.

And the issues the government is seeking consultation on, will affect every family trust from the "plain vanilla style" ones to the most complex of family trust structures.

And these issues include such matters as the treatment of distributions to income-tax exempt entities like charities, the proposed rollover relief to support restructuring and how excess franking credits should be treated. And of course, the ways to collect the minimum tax.

However, a couple of areas have already seen much public discussion and this has resulted in the government backing down on one of the original proposals - namely, to subject testamentary trust income to a minimum 30% tax rate.

As a result, the government will now exempt "discretionary" testamentary trusts from this rule. This will mean that trusts set up under a person's will to hold assets of the deceased and distribute income to beneficiaries on an ongoing basis after the estate has otherwise been finalised will not be subject to the new minimum 30% tax.

But, importantly, this is subject to the "discretionary" testamentary trust being established for a "bona-fide" testamentary trust purpose (eg to cater for a disabled beneficiary). And this is likely to be an area of some debate and controversy.

Suffice to say, if you are proposing to create such a testamentary trust, then it is worthwhile to come and speak to us about it in the not too distant future.

And while on the topic of wills and estates, the big CGT changes in the Budget – and the ending of the 50% discount - may have implications for assets that are bequeathed after 30 June 2027.

So again, it may be worthwhile coming in and having a chat with us about these things – as there is some planning that can be done to avoid the possible harshness of the new rules.

In short, if you have any sort of trust or plan to create one (including a "discretionary" testamentary trust), then it is worthwhile to get ahead of the curve and speak to us about it – or if only just to understand what all these trust changes will mean for you.

This information has been prepared without taking into account your objectives, financial situation or needs. Because of this, you should, before acting on this information, consider its appropriateness, having regard to your objectives, financial situation or needs.