LAWCENTRAL

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Family Trust money going to children

Question: I love distributing Family Trust income to my 2 children. Both my children are now well into their 20s and still living the university life - compliments of dad and mum. I've got to support them so I may as well take advantage of their brilliant low tax status. My accountant told me that since my children aren't really seeing the money in their bank account, my kids need to 'forgive the debt'. What is that?

Answer: This is not unique. Everyone distributes what they can to their children. The children never see the money; they just get a loan account. What usually happens is that a trust (often a family trust) makes a distribution to a lucky beneficiary. The lucky beneficiary is actually not that lucky because no money actually changes hands. Accountants call these "journal entries".

Rather than actually seeing the money, the beneficiary merely loans the money back to the Family Trust. A 'loan account' is a colloquial name for this account.

The Family Trust generally pays the tax on this money for the beneficiary.

Unfortunately, not everyone has an accountant like yours that wants to reduce the loan account. Last week, a young man with a cocaine habit (which sadly seems to be so prevalent in Sydney at the moment), now in 3rd year medicine, approached his dad for the $380,000 in the loan account. As I have done so many times before for other clients, I took the young lad aside and advised him that while his dad is legally required to pay the money, if he continued to demand it, then I would restructure his father's affairs so there would be nothing left in his Will. Everything would go to his sister. The man was not stupid and agreed to sign a Debt Forgiveness Kit**.** This effectively got rid of the loan account without any adverse issues.

The loan account is also reduced naturally when your children get food, shelter and nice things (like Christmas presents). All these expenses similarly reduce the loan account.

What happens if I don't want to buy a Debt Forgiveness Kit?

A person would be silly to disobey their accountant. These distributions and 'journal entries' sound fancy, but if they aren't done properly you have massive problems. You don't want your children putting out their hand for payment of the loan account. How would they do this, you ask? Well, they haven't seen a dime of their 'distributions' in their bank account. Your Trust Minutes say they received a distribution. A Debt Forgiveness document severs the beneficiary's right to claim those distributions back.

Not only does the Debt Forgiveness Kit give you a document to help stop your beneficiaries trying to claim their 'distributions' in cash from you, it also contains information that helps you save on the 3 insidious taxes:

1. stamp duty;
2. income tax; and
3. Capital Gains Tax.

What does your Debt Forgiveness Kit contain?

1. A clear and concise manual on the tax implications of Debt Forgiveness.
2. A Deed of Debt Forgiveness that lets you or your company legally forgive the debt.

What other things can I use the Debt Forgiveness Kit for?

Other than distributions from trusts, Debt Forgiveness Kits are useful for:

1. people who don't like money;
2. people who have too much money; and
3. generous people that like giving money away.

Use it where someone owes you money, but you decide out of the goodness of your heart that you don't want it back.

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