

# Budget 2010

## Any Impact On Trusts?

What is the position with those who have set up Trusts driven by tax advantages?

### **Lowering of the top personal tax rate**

The reduction in the top personal tax rate to 33% will affect the way that some trusts operate, especially those in which income from a key earner who was otherwise paying tax at the top tax rate was able to channel these earnings into a trust.

The government had indicated in the lead-up to the Budget that it was concerned to ensure that the top tax rate equated with the trust tax rate to encourage fairness in the tax system. The top income earners who have been transferring a portion of 'their income' to a trust will need to determine whether this strategy is still required. At first glance it may not be so beneficial; however there are still some reasons that may encourage the payment of income to trusts.

### **Trust benefits**

First, allocating income to a trust results in the wealth of the trust increasing, rather than the individual. This brings into play all of the other benefits of having assets in trusts – the protection of assets from business risk, assessments and relationship break-ups, asset testing, providing for your children and grandchildren, and a plethora of other advantages.

Second, the government has indirectly assisted trusts by reducing the lower income tax rates. These rates have reduced from 1 October 2010 to 10.5% for income up to \$14,000, 17.5% for income from \$14,001–\$48,000 and 30% from \$48,001–\$70,000. Income received by a trust can be transferred by the trustees to beneficiaries who are on lower tax rates (this is particularly so when the children beneficiaries are over 16 years of age) during the income tax year in which the income is earned, or within 12 months following the end of the income tax year (subject to certain provisos). This can result in the tax on many trusts' income being distributed to lower earning beneficiaries at substantially less than 33%.

Please contact us if you have any queries.