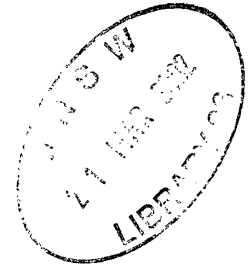


Reporter



Including Student Assistance Decisions

Opinion

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**Companies and trusts: targeting Centrelink's customers**

From 1 January 2002 the Social Security Act 1991 was amended by the Social Security and Veteran's Entitlement Legislation Amendment (Private Trusts and Private Companies — Integrity of Means Testing) Act 2000. The purpose of these amendments is to ensure that people with sufficient assets and income available to them use those assets to support themselves rather than relying on social security payments.

The Department of Family and Community Services had noted a rise in the number of persons using companies and trusts to hold and control assets, and thus bring themselves under the limit of the assets and income tests for payment of social security benefits. It is estimated that around 35,000 Centrelink customers have been affected by these amendments — about half would have had their payments reduced and about half would have had their payments cancelled. The government expects to save around \$100 million per year.

The main effect of these amendments is to include in a person's assets those assets held by a company or trust where that company or trust is classified as a designated private trust or company. Only small private companies and trusts are affected by these changes. Holdings in shares or units in publicly listed

companies or unit trusts with more than 50 members are not affected. If a private company or trust is classified as a designated private company or trust, the assets or income of that trust or company may be attributed to the person who controls or who contributed to those assets.

There are two tests:

1. The Control Test — the person is the de facto owner of the assets where the asset can be used for that person's purpose or benefit.

2. The Source Test — designed to identify the ultimate person who provided the assets to the trust or company. There may be several intermediaries. This test applies to all contributions made after 7.30 pm on 9 May 2000.

Whether and to what extent the assets are attributed to the person will depend upon a process that is set out in a number of disallowable instruments. These instruments are to be made according to decision-making principles that will also be set out in disallowable instruments.

There is a special concession for farmers who hold their farming property in a family trust, and for those farmers who transfer the family farm to a younger member of the family providing the farm is valued at less than \$750,000 and family income is less than \$28,200.

[C.H.]

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The **Social Security Reporter** is published six times a year by the Legal Service Bulletin Co-operative Ltd. Tel. (03) 9544 0974 ISSN 0817 3524

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**Typesetting:** Marilyn Gillespie

**Printing:** Thajo Printing, 4 Yeovil Court, Wheelers Hill 3150

**Subscriptions** are available at \$66 a year, \$44 for Alternative Law Journal subscribers.

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Print Post approved PP381667/00178