

CHILD MAINTENANCE TRUST



Maclean Partners Chartered Accountants specialise in the provision of advice in the use of a Child Maintenance Trust.

This is a specialist area of Trust and Tax Law that can provide significant tax advantage to a family.

From Experience we have found that the assessment of child maintenance is a key frustration for all parties.

The use of a Child Maintenance Trust can eliminate uncertainty, allow you to plan your future cash flows and reduce your tax burden.



EXAMPLE 1—Tax Savings from a CMT

Bob and Betty have recently divorced. Under their divorce settlement Bob has an obligation to make child maintenance payments totalling \$30,000 p.a. for his three children.

Bob is a high income earner and pays tax on his investment income at the top marginal rate. Bob is in receipt of investment income (interest, rent etc.) which can be used to make the maintenance payments directly or indirectly through a CMT.

Direct Payments

Cost to Bob in pre-tax dollars	\$56,075
Tax exempt to children	

Payment through a CMT

Cost to Bob in pre-tax dollars	\$30,000
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The trustee is assessable on behalf of each child. No tax would be payable after applying the tax free threshold and low income rebate as follows:

Assessable CMT income per child of	\$10,000
Tax Payable	Nil
Total pre-tax savings to Bob (i.e. \$56,075—\$30,000)	\$26,075

Note: This simple example does not take into account that Bob transferred capital to the CMT which must pass to the children as required by S.102AG (2A)

Nor does the example consider potential CGT, GST and stamp duty issues upon transfer of assets into or out of the CMT.

THE APPLICATION

A Child Maintenance Trust ("CMT") is a trust established for the benefit of children following a family break-down.

Property is transferred to the CMT in order to generate income that will be distributed to, or applied for the benefit of, the minor beneficiaries in satisfaction of an order or agreement to pay maintenance for children.

At the cessation of the trust the capital reverts to the children.

THE OPERATIVE PROVISIONS & REFERENCES

Section 102AG (2) provides for certain income to be treated as excepted Trust income and taxed at marginal tax rates.

Anti-avoidance provisions refer to section 102AG (4)

The commissioner of taxation has also issued TR 98/4 which deals with the operations of Child Maintenance Trust.





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THE BENEFITS

- ◇ **CMT has the benefit of certainty.** Where a relationship break down someone (referred to here as the maintenance provider) may be ordered to pay maintenance for the child or children

Child support obligations can be established by agreement or via Child Support assessments of the Department of Human Resources. The formula used by the department can be complex with many variables.

- ◇ **Tax benefits—**The maintenance provider has two options in relation to payment of the financial obligations either by, direct payment or via a CMT.

Section 102AG (2) (c) (viii) provides that 'excepted income' of the child will be assessed at marginal tax rates. As from 1st July 2012 the tax free threshold for adults had been increased to \$18,200. In the right circumstances, a CMT may provide substantial tax savings, as illustrated in the example in this brochure.

- ◇ **A further benefit is the protection of the assets that are held within the Trust for the absolute benefit of the minor beneficiaries.**

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DISCLAIMER

A CMT will typically have most relevance to high net worth individuals who are able to permanently divest themselves of income producing assets.

However, a client contemplating a CMT strategy should only proceed after a detailed consideration of not only the income tax outcomes but also the advantages and disadvantages that may arise in their individual circumstances. This strategy is not specific advice and we recommend you consult a Maclean Partners specialist adviser in conjunction with your legal adviser.

We will be happy to refer you to a Legal Adviser that specialises in the area of law.

ADVICE PROVIDED MAY INCLUDE:

- ◇ BUDGETS AND CASH FLOWS
- ◇ BUSINESS FINANCE OR REFINANCE
- ◇ BUSINESS GROWTH PLANNING
- ◇ BUSINESS MARKETING
- ◇ BUSINESS VALUATIONS
- ◇ BUY AND SELL AGREEMENTS WITH SUPPORTING INSURANCE COVER
- ◇ BUYING AND SELLING OF BUSINESSES
- ◇ CHILD MAINTENANCE TRUST
- ◇ COMPLIMENTARY BUSINESS REVIEWS
- ◇ EXTERNAL CFO
- ◇ FINANCIAL PLANNING INCLUDING CONSIDERATION OF INSURANCE NEEDS
- ◇ GENERAL FINANCIAL MANAGEMENT
- ◇ SETTING UP A NEW BUSINESS
- ◇ SELF MANAGED SUPER FUNDS
- ◇ STRATEGIC BUSINESS PLANNING
- ◇ SUCCESSION PLANNING
- ◇ TAX PLANNING



*At Maclean Partners, we
are passionate about*

***'Bringing all the pieces of your
financial life together'.***

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