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FPA *Professionals* CONGRESS

BRISBANE 18-20 NOVEMBER 2015



FINANCIAL PLANNING
ASSOCIATION *of* AUSTRALIA

Scott Hay-Bartlem

Death and Taxes





COOPER GRACE WARD
LAWYERS

Death and Taxes FPA National Congress

19 November 2015

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Contents

Case study

Passing assets down the generations – what are the issues?

- While alive
- After death

Case study – what would you do?



Baby boomers

Born 1945 -1964

5.3 million in Australia

2012 (AFR) baby boomers in Australia

- Worth 4 times more than Gen Ys (\$1 million per household)
- Total assets \$1.54 trillion

2010 – baby boomers owned half the wealth in Britain



Case study

- Tony and Margie

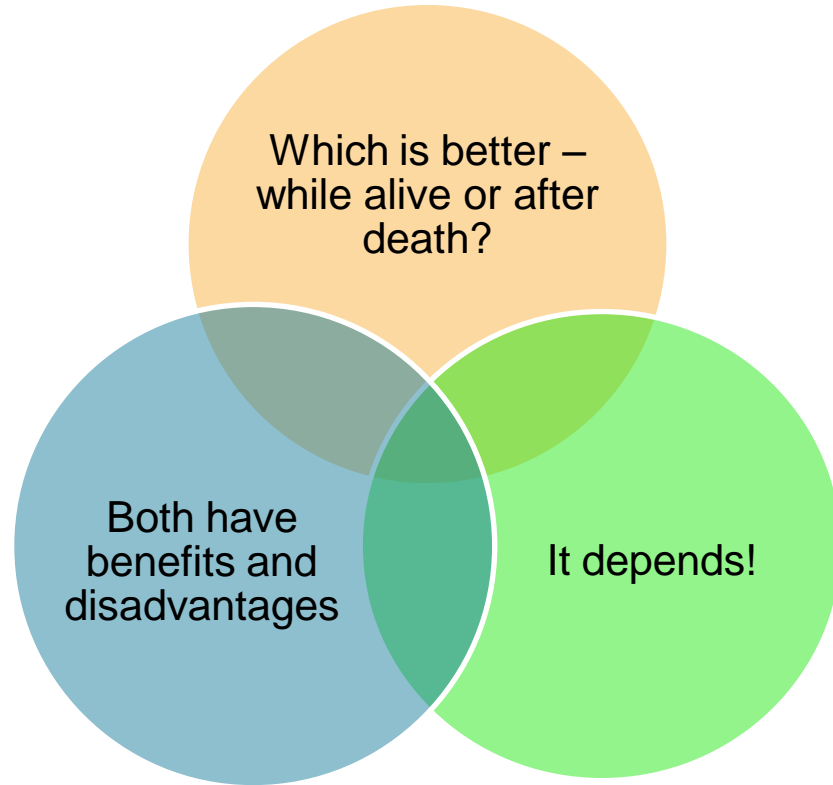


What issues do you see?





Passing assets





Passing assets while alive

Disposal

- CGT event
- Market value substitution
- Main residence – make sure is 100% exempt
- Pre-CGT – but whole interest?
- Small business CGT concessions

Duty

- On value
- Some states have some exemptions

Belongs to the children now

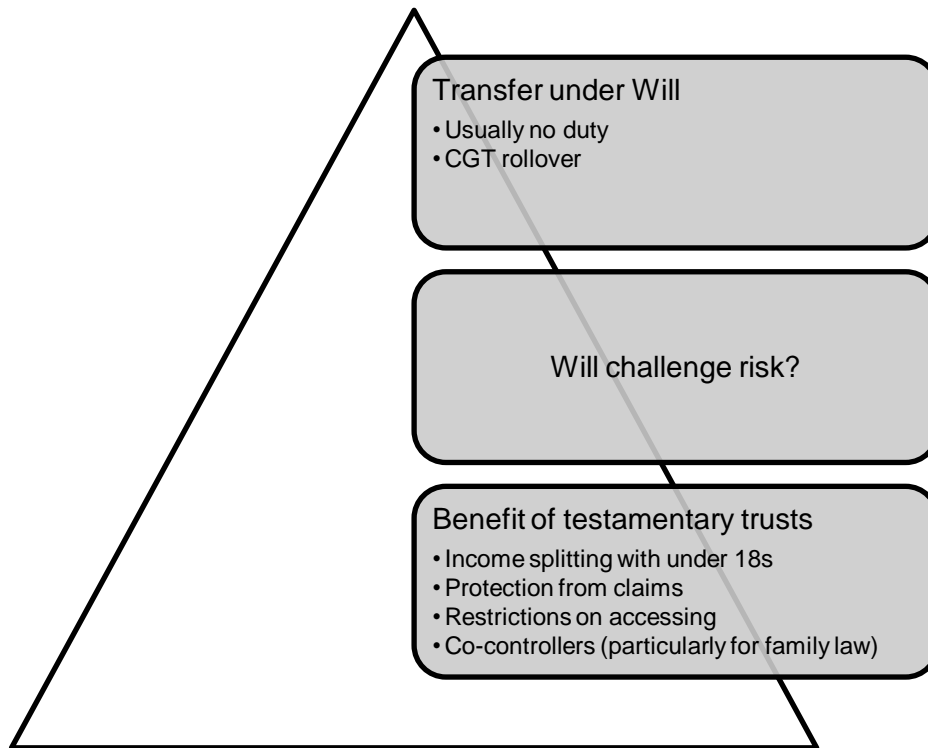
- Risk?
- Marital disharmony?
- Squander?

Gift versus loans

- Document!



Passing assets after death





Assets in family trusts

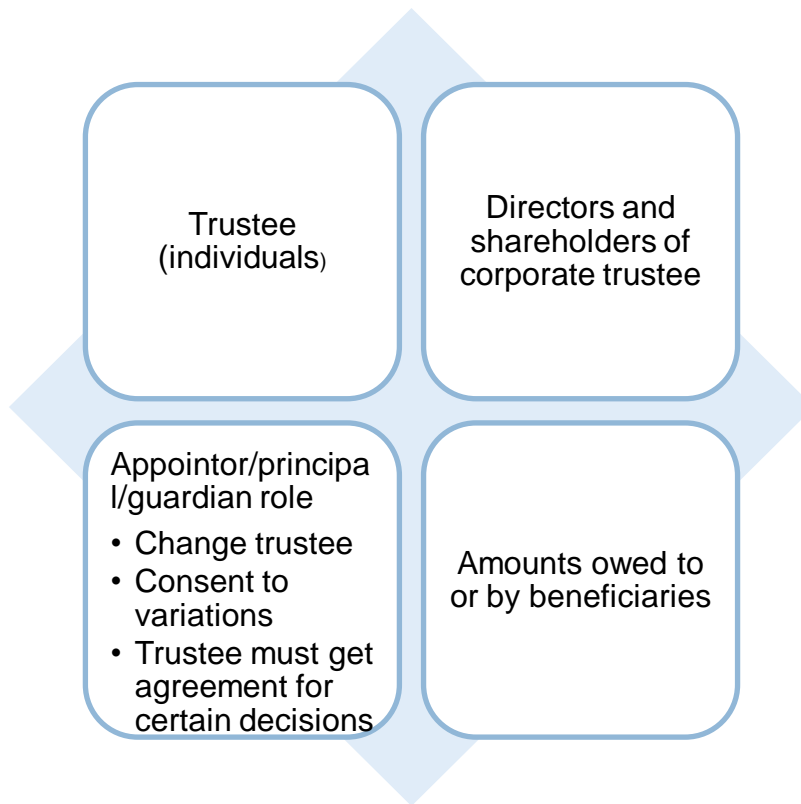
Great for discretion while parents alive

No-one has an interest

- Good for
- Lawsuits
- Matrimonial issues
- Flexibility
- Passing control
- Can present issues
- Multiple controllers
- Multiple assets



Control of a family trust





Passing control while alive

Change trustee/directors of company

- Shareholding too?

Change of appointor/principal/guardian

Liability issues?

How do multiple people make decisions

- Unanimous?
- Majority?

Can be duty issues

Should be no CGT or GST



Passing control while alive





Passing control after death

Assets in family trust not estate assets

- Amount owed to beneficiary is
- Amount owed by beneficiary can be called
- Put rules around

Shareholding in trustee company

- What rights do you get?

Pass on appointor/principal/guardian

- Follow trust deed

How do multiple people make decisions

- Unanimous?
- Majority?



Amounts owed to/by beneficiaries

Stay or
go?

Deal with

- Forgive?
- Gift?
- Debt forgiveness rules?

Can use to
equalise
estate



What issues did you see?





Options to consider?





Thank you



Scott Hay-Bartlem
Partner



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