



RESIDENTIAL CARE SUBSIDY & TRUSTS — an update

AUTUMN 2020

If a person goes into a rest home then they may be eligible to receive the residential care subsidy to assist with the cost of their care.

In order to determine if an applicant is eligible for the residential care subsidy, the Ministry of Social Development carries out means assessments of the person's circumstances. This involves an asset assessment and an income assessment. The Ministry's income assessments where a Trust was involved were challenged in the Court of Appeal case of *Ministry of Social Development v Broadbent*. The Court's decision impacts people who apply for the residential care subsidy and have a Trust, which we will summarise below.

Deprived Income

Prior to May 2019, the Ministry's policy had been that if assets were transferred to a family trust and these assets earned an income or were capable of earning an income then the applicant had deprived themselves of income. The Ministry would then add this deprived income onto the applicant's actual income. For example, in *Broadbent* when the Ministry assessed Mrs Broadbent's income it determined that:

- the assets in the Trust were earning an annual income of \$81,093.50;
- Mrs Broadbent had deprived herself of this annual income by transferring the assets to the Trust;
- if she had not transferred those assets to the Trust then she would have been earning that income herself therefore the Trust income could be considered her income;
- this income when added to her other income was greater than the income threshold; and
- she was not eligible for the residential care subsidy.

The Court of Appeal overturned the Ministry's decision and held that if assets are validly gifted (ie at \$27,000 per year) then the Ministry cannot treat the income from those assets as being the income of the applicant.

Assistance from Trust

The other important point from the *Broadbent* decision is that the Court stated that:

"a trustee of the Family Trust is empowered to make distributions of trust income to Mrs Broadbent. It does not matter that Mrs Broadbent is merely a discretionary beneficiary. She has a right to request payment from the Family Trust. In a closely held family trust with a history of payment to her, trust income must be assumed to be available unless there are particular circumstances that demonstrate it is not."

As a result the Ministry now considers it reasonable for an applicant's Family Trust to support them if the applicant is a beneficiary of the Trust. For all future applications involving a Trust an applicant must either:

- explain why they have not chosen to ask their Family Trust for financial support in respect of their care costs; or
- have the Trustees of the Trust provide in writing an explanation as to why they will not financially support the applicant.

As the *Broadbent* decision was only in May of this year, it is currently unknown how the Ministry will deal with cases where a Trust will not provide funds to an applicant for the cost of their care. For example whether this will affect the amount an applicant is to receive. Until such time as any recent decisions are released, we cannot say how this new policy is going to affect applications involving trusts. Trusts in New Zealand are discretionary. Although a beneficiary can ask for funds from the Trust, the Trustees do not have to provide funds to the beneficiary. The Trustees are under an obligation to consider the needs of all beneficiaries before making a distribution. So even if the applicant requests funds, the Trustees could decline the request once they have considered the needs of the other beneficiaries.

—Simone Seddon—Collins & May, Nov 2019

The learning process continues to the day you die. —Kirk Douglas

Walt Disney was fired by a newspaper editor for lack of ideas. He also went bankrupt several times before he and his brother co-founded Walt Disney Productions, one of the best known motion picture companies in the world. In 2019, Disney made US\$69B.

In 1954, the manager of the Grand Old Opry—a country music stage concert in Nashville, Tennessee—fired Elvis Presley after one performance. He told the future king of rock'n'roll, "You ain't goin' nowhere, son. You ought to go back to drivin' a truck".

TOO POOR TO RAISE PENSION AGE — review

New Zealanders are approaching retirement in poorer shape than their parents' generation did—and that means we cannot afford to raise the pension age, the Retirement Commission says.

In the Retirement Commission's latest three-yearly review of retirement income policies, Cordtz said new projections by the

Treasury showed that New Zealand Superannuation in its current form was sustainable for at least the next 30 years—and raising the age could do more harm than good. The review noted a downward trend in home ownership. The proportion of people aged over 65 who own a home without a mortgage has dropped from 83 percent in the mid-1990s to 72 percent.

—Susan Edmunds—The Dominion Post, Jan 2020

Star Wars was rejected by every movie studio in Hollywood before 20th Century Fox finally produced it. It went on to be one of the largest grossing movies in film history.

Henry Ford went broke 5 times before he founded the Ford Motor Co and became one of the richest people in the world.

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If you would like to have a chat with your Adviser, please contact us anytime at

office@mackay.co.nz or on 04 570 2233

Spotlight on Investing—Booster Private Land & Property Fund

Investment Objective and Strategy

The Private Land and Property Fund's investment objective is to provide investors with a complementary and enhanced risk / return outcome compared to traditional listed property investments. It aims to generate average annual long-term returns of about 8% (before tax and after all fees, charges and costs) over rolling 7 year periods from a combination of income distributions and capital growth. The fund aims to invest primarily in a diversified range of agricultural and horticultural land and property in New Zealand, which may be supplemented with investments in industrial, commercial and retail properties. The fund obtains its property exposure by buying units in the Private Land and Property Portfolio managed by Booster. The underlying fund, may borrow to invest in more land and properties or to develop land or properties already held. The level of gearing can vary between 0-65% of the fund's asset value.

Key Facts (as at 31 December 2019)

Fund Size	\$41.6 million
Inception Date	7/01/2019
Manager	Booster Investment Management Ltd
Supervisor	Public Trust
Fund Type	Portfolio Investment Entity (PIE)
Suggested Investment Timeframe	7 years +

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After Fred Astaire's first screen test, the memo from the testing director of MGM said, "Can't act! Slightly bald! Can dance a little!" Astaire—whose stellar stage, film and television career spanned 76 years—kept that memo over the fireplace in his Beverly Hills home.

Coronavirus symptoms & protecting yourself

Although vast majority of coronavirus cases have occurred overseas, authorities are still encouraging Kiwis to take simple precautions; to understand coronavirus signs and symptoms and how to protect yourself.

Symptoms and Protection from Coronavirus

Nib Group Medical Advisor, Dr Hamish Black, provides background on coronavirus, including how it's transmitted and precautions you can take.

How coronavirus spreads

- Direct close contact with a person while they're infectious
- Contact with droplets of bodily fluids when an infected person coughs or sneezes, or
- Contact with an object/surface (with viral particles) and then touching your mouth, eyes or nose.

Signs and symptoms of coronavirus

Many people infected by the virus are asymptomatic, which means they will test positive for the virus but show no symptoms. For others, symptoms can vary from mild to severe and the people who tend to get sick are the elderly or immune-compromised.

Symptoms can include

- Fever
- Flu-like symptoms, such as coughing and a sore throat
- Shortness of breath

Coronavirus symptoms can replicate the signs as other illnesses, including pneumonia, so they aren't conclusive that you have coronavirus. If you have a fever, cough or difficulty breathing please telephone Healthline (for free) on 0800 611 116. If you think you may have been exposed to coronavirus contact your healthcare provider immediately.

Protecting yourself

- Avoid close contact with people who are sick.
- Stay away from others if you're sick.
- Cover your mouth when coughing or sneezing. If you don't have a tissue, sneeze or cough into your elbow, not your hands. Put used tissues in a rubbish bin or plastic bag.
- Stay home when you are sick.
- Frequently wash your hands with warm water and soap. Always wash your hands after caring for sick people, before eating or handling food, after using the toilet, and after coughing, sneezing or blowing your nose. If soap and water are not readily available use an alcohol-based hand sanitizer with at least 60% alcohol.

Healthy people do not need to wear facemasks as they will not protect you from becoming infected with the virus. However, if you become sick, wearing a facemask will help protect others from infection.

For people arriving from mainland China, or transiting through China, risks are increased for this group and you should refer to the [Ministry of Health website](#) regarding any self-isolation advice or call 0800 358 5453 which is free, available 24/7 and has access to interpreters.

Travelling overseas?

For New Zealanders looking to travel overseas, especially China, refer to [SafeTravel](#). This site is maintained by the Ministry of Foreign Affairs and Trade and outlines any travel restrictions.

—Dr Hamish Black, nib Group Medical Adviser

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