



Legal Brief

Brett Davies

L A W Y E R S

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Winter 2000 Edition of *Legal Brief*

The new age of Law.

In 1994 Brett Davies Lawyers started the service called "FastTrack Trusts". FastTrack serviced the needs of Accountants and Advisers for standard documents. These included Family Trusts and Superannuation Deeds. FastTrack has proved hugely successful.

Over the past 3 years, Australia has seen the extraordinary development of the Internet. As Internet technology has evolved, so to has FastTrack. You can now visit our website www.taxlawyers.com.au and order your Family Trust, Partnership Deed, SMSF and Slab 3 amendment online.

What does the future hold? Brett Davies Lawyers is a private law firm specialising in Taxation and Superannuation. While this is of great advantage to you and your clients for obtaining specialist high quality legal advice, it does severely limit the expansion of FastTrack. For this reason, Law Central Co Ltd was created. Law Central is not a law firm. It does not provide legal advice. What it does do, is provide you and your clients immediate access to a wide range of legal documents through out the world.

The days of having your personal Lawyer handle everything for you are now gone. The Law is too complex for any one Lawyer to cope with. Law Central sources the best Lawyers specialising in each area of Law from each Jurisdiction. Law Central users are confident that their documents are prepared by experts in each field. How does it work? Say your client Sue has a great new invention that she wants to show to some potential investors in New Zealand. As with all things, she comes to you for advice on how to best proceed. You realise that Sue has no real protection from these investors broadcasting her idea. You suggest a Confidentiality Deed and direct her to Law Central's web site. At Lawcentral.com.au either Sue or yourself read up on Confidentiality Deeds in New Zealand. You answer a simple series of questions and press "get me a summary" to confirm your details. You then have the option of ordering the document using either your credit card, or your Monthly account. 15 to 20 seconds later, Sue's New Zealand Confidentiality Deed is waiting on your computer for printing.

Law Central is a world wide service. We are finalising seed capital with the expectation of ASX listing by the end of the year.

If you want information on the full range of services we provide, I am happy to help. See www.TaxLawyers.com.au or please call my direct telephone (08) 9325 9777.

Yours Sincerely,

Jason Styles
Practice Manager



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Tax and Superannuation Update - Winter 2000 Edition

Private Rulings – you don't need a mate to get one you like!

You may recall the recent disgrace of one of the Tax Man's Assistant Commissioners who left in a hurry after giving favourable Private Rulings to his mates. What does this hold for the future of Private Rulings? Can you still seek one from the Tax Man? (What if you're not a "mate"? –Ed)

Do I need a Private Ruling? Consider the following case.

Paul, Ivan and Anastasia are good friends. They regularly meet for coffee. One Saturday morning Ivan announces that he has a proposition for his friends. He breathlessly tells them he has found a way to make some quick bucks. Paul and Anastasia's financial affairs are good, but they are keen to hear his idea.

He explains that when he was on holidays with his wife at a coastal resort, he spotted a vacant block of land. He spoke to a few locals who said that the town was in dire need of some up market accommodation. Ivan agreed with the locals, remembering how difficult it was to book reasonable accommodation.

Ivan proposes they mortgage their houses and pay a developer to erect some up market holiday units. They then sell some of the units, pay out the investment loan, and walk away with the cash. The proposition gets better, when Ivan tells Paul and Anastasia that they can each keep a unit for their own use.

The plan swings into action. The threesome borrow \$750,000 from the bank and instruct the developer to commence work. As expected, the units sell quickly. The triumphant trio repay the loan and pocket the cash.

However they all receive a rude shock when a business sized envelope lands in their letterbox from the Tax Man. They are all subject to an intensive audit. The Tax man rules that all the money

they have received is taxable income rather than a capital gain. To make matters worse, the interest and building allowances that they claimed are rejected by the Tax Man. A week later they all receive amended assessments in their letterboxes - they now have tax bills of \$90,000 each!

Ivan, Paul and Anastasia's mistake was that they didn't consult their Adviser and Accountant first. The trio's Accountant and Adviser could have worked with a Tax Lawyer to obtain a private ruling.

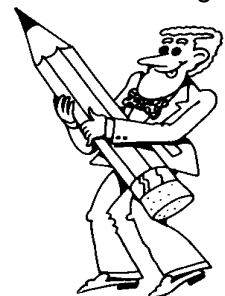
Wouldn't you like to know what the Tax Man is thinking?



Ivan Paul and Anastasia would then have known in advance the Tax Man's thinking (frightening at times!) as to how he would assess the transaction. Once they had received the Ruling, they know in advance what the tax and capital gains implications are. Isn't it a good idea to know what the Tax Man is thinking?

When should I seek a Private Ruling

You can apply for a private ruling to determine the Tax Man's view on how the tax law applies in a certain situation. You can apply before or after entering into the



Get the Tax Man's opinion in writing BEFORE he sends you the bill!

financial arrangement or transaction in question, or before lodging a tax return. All taxpayers except partnerships can apply for a ruling. Partners can apply in their own right.

Brett Davies Lawyers work with your Lawyer, Accountant and Adviser to research the issues involved. As directed by your Advisers, we assist in the technical drafting of your Private Ruling application. As required, we are happy to then deal with the Tax Office.

Brett Davies Lawyers is a private law firm. It only deals with clients through your professional advisers.



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Tax and Superannuation Update – Winter 2000 Edition

Parking your Rolls at Centrelink

At Brett Davies Lawyers we didn't do much DSS advice - that is until the means testing of some of your Super for the Aged

Pension (2 years ago now - old news). Tina Berry moved straight into this area of law - and loves it. We have been structuring Family Trusts and "A class" shares so that your the assets aren't means tested for DSS. Unless the 3 Generation Testamentary Trusts and Family Trusts are structured correctly there will be trouble with means testing.

All is purring along quite nicely. However, the budget has forewarned us that Family Trusts for DSS are under attack. I see so many incorrect set ups of DSS Family Trusts that you would think that the Treasurer already has enough to chew on. The Treasury now wants more.

I have read the Bill before parliament. The way that most Advisers and Accountants have set up their DSS Family Trust is still fine - even if the Bill is past. I think that "A class" shares have had their day. The whole issue is still 18 months away so it is still business as usual until then.

I am happy to speak to anyone on this topic at \$330 an hour (plus GST). Give Michelle a ring (08 9325 5999) and book yourself in. However you can't become a client of this firm unless your Accountant, Adviser or Lawyer has given you a referral letter or has rung us up first to say that you are going to ring us. We are a private tax law

firm. We pay money to the Yellow Pages so that we have no exposure to the general public.
Brett Davies

Family Trusts until 11.45pm 30 June 2000 (via LawCentral.com.au)

A discretionary Family Trust, or Self Managed Superannuation Fund may save you from the Tax Man. Ask your Adviser and Accountant whether you can benefit from these tax effective structures.



We will burn the midnight oil to ensure your Trusts are established before 1 July 2000

Beware, time is running out for this Financial Year.

This years dead line for Family Trusts is 11.45pm Friday 30 June 2000 (WST) or 1.45am Saturday 1 July 2000 (EST). Brett Davies Lawyers and Law Central will prepare your Family Trust before midnight of the last day of the Financial year. Brett Davies Lawyers will prepare the 2 copies of the Family Trust, sign as Settlor and affix WA stamp duty. If you require Partnership Deeds, Super Funds and Unit Trusts urgently

then we will courier the Deeds back to your Lawyer, Adviser or Accountant's office. See www.lawcentral.com.au to get what ever ordering forms you need.

The Tax Man's got the whole world in his hands

Tax is no longer confined to the geographical boundaries of Australia. With the increasing incidence of internet commerce and electronic transitions the impact of international tax is greater. You have to consider international tax if you or one of your employees works overseas or your company deals with overseas clients.

Michelle is a successful business person based in Sydney. She travels regularly overseas marketing her products. A major client approaches her with an offer too good to refuse. He suggests that a subsidiary of her business should be based in his country to take advantage of cheaper labour rates and to eliminate shipping delays. Michelle can also take advantage of incentives that foreign businesses are eligible for.

Michelle thinks this is fantastic. However, as she ponders the possibilities on the flight back to Sydney a number of complications come to mind. How will this effect my personal tax situation? Will I be taxed on my overseas profits back in Australia?

Michelle needs to talk to her Adviser and Accountant. Working with a Tax Lawyer they can provide advice on her residence status issues and the application of double tax agreements.

Brett Davies Lawyers is a private law firm. It only deals with clients through your professional advisers.