



By Eugene Collins
eugene@collinsmay.co.nz
DD: 576 1407

Lloyd Collins
lloyd@collinsmay.co.nz
DD: 576 1404

Amy Haste
amy@collinsmay.co.nz
DD: 576 1412

Hannah Nimot
hannah@collinsmay.co.nz
DD: 576 1409

Simone Seddon
simone@collinsmay.co.nz
DD: 576 1411

If you would like any of our previous newsletters or any of the our free booklets on Wills, Family Trusts, Relationship Property or Business Law please email us or visit our website at www.collinsmay.co.nz

THE PERILS OF GIFTING

It is now just over two years since the Gift Duty Act was removed from our Statute Books.

Despite that a lot of people are still not aware of all the implications of gifting.

It was only the Gift Duty Act that was repealed. All other rules and regulations that may be affected by making a gift remain in place.

For example the Property Law Act 2007 is still in place and depending on the timing of a gift or its purpose it may be able to be clawed back, especially if it was made with the intention of defeating another person's property interests or creditors of the donor.

A gift may also be effected by the Insolvency Act if the gift was made within two years of insolvency and in some circumstances five years.

In addition to these any gifts made may affect qualification for Residential Care Subsidies in the future should you find yourself in the position of having to apply for the one. A recent decision of the New Zealand Court of Appeal has confirmed the Government's change of policy in relation to the Residential Care Subsidy and most importantly how far they go

back.

This has resulted in our recommendation to all clients to reduce their gifting (in the case of couples) to \$27,000.00 per year combined.

If you receive advice (because of the abolition of the Gift Duty Act) that to gift further assets into your Family Trust or forgive any debt owed by your Family Trust in one large gift it is essential that you take the correct advice first and to consult your legal adviser to ensure that you have considered all the repercussions of making such a gift and fully understand that decision.

This advice applies to a gift to anyone. It does not have to involve a Family Trust. You may be making a gift to a child or grandchild or a personal friend. The same rules apply.

If you have any questions in relation to gifting please do not hesitate to contact the Collins & May Team.

20 MINUTE FREE

**WANT to review your Family Trust structure?
THEN call us and take advantage of our 20 Minute Free interview**