

Testamentary Trusts and the Budget: What Has Changed Since Our Last Update?

Update – June 2026

Since this article was first published, the Federal Government has announced that income from discretionary testamentary trusts will be exempt from the proposed minimum trust tax measures. This announcement provides significant reassurance for people who have already included testamentary trusts in their Wills, or are considering creating Wills with Testamentary Trusts.

Please read the article below in light of this recent announcement – which now means that, with some limited exceptions, the proposed minimum 30% tax will NOT apply to income from testamentary trusts.

The relevant legislation has not yet passed Parliament, and when it does, it is flagged to include "integrity measures" to ensure that the testamentary trust exemptions apply to income generated on "genuine inheritances". Details around what this means, and the implementation of the integrity measures, will be released in due course.

The Federal Budget includes proposed changes that could impact how testamentary trusts are taxed, prompting questions for many people about whether this creates a problem with their current Wills. While the proposed tax changes are not yet law, the proposals are a timely reminder to revisit your Will to ensure it continues to address your needs appropriately, and provides the right level of protection for your family. Here's what you need to know.

Has the Federal Budget made my Will useless?

No. Your Will is still valid. But it may be worth reviewing, especially if it includes a testamentary trust.

What is a testamentary discretionary trust?

This is a type of trust that is set up in a Will and only starts after the Willmaker dies. These trusts are often just called "testamentary trusts". They are designed so that the person in charge (the Trustee) has flexibility to decide how income and assets are shared among a group of possible beneficiaries (usually family members).

What are the proposed Budget changes?

The Budget proposes a new minimum 30% tax on income from discretionary trusts, which may apply from 1 July 2028. These changes are not law yet and could still be revised.

Why does this matter for testamentary trusts?

At the moment, these trusts allow families to "income-split" with beneficiaries on lower tax rates (like children or non-working spouses). The proposed 30% minimum tax would limit this benefit.

Does this mean testamentary trusts are no longer useful?

No. While tax savings may reduce, testamentary trusts still provide important non-tax benefits, including:

- Protecting inheritances
- Flexibility in distributing assets
- Controlling how and when beneficiaries receive funds

These features remain especially valuable for young children, vulnerable beneficiaries, and blended families.

Can families still get tax benefits?

Many families will still be able to use a testamentary trust to save on tax, but under the proposed rules, the benefits may be less significant than before.

What should I do now?

Don’t panic – and don’t scrap existing plans. But do review your Will and estate planning strategy to ensure it still meets your needs in light of potential changes.

What’s the key takeaway?

Estate planning isn’t “set and forget.” The Budget serves as a good reminder to keep your Will up to date as laws and circumstances change.

Our Wills & Estates team at Andersons Solicitors can help you understand what these changes may mean for your situation and guide you through any updates needed to give you continued confidence in your estate planning. Please contact us if you’d like to arrange a review.