



Education Testamentary Trusts

An Education Testamentary Trust can be set up through your Will to fund all or part of the cost of primary, secondary and/or tertiary education for your children or grandchildren (or other dependants or relatives).

How is it funded?

In order to set up such a trust, you include in your Will a direction to your Executor to hold certain income producing assets, a fixed monetary amount, or a percentage of your Estate on trust to fund the Education Testamentary Trust.

The trustee of the Education Testamentary Trust is then directed to distribute the income (and sometimes the capital) of the Trust to a class of beneficiaries for the purposes of providing financial support in meeting their educational costs.

The terms of an Education Testamentary Trust

The trustee of the Education Testamentary Trust is usually the Executor of your Estate.

You can define “educational costs” as broadly or narrowly as you wish – to include not only enrolment fees, but also extra-curriculum costs such as music lessons and excursions.

An Education Testamentary Trust is usually a ‘discretionary’ trust, and the beneficiaries will be identified by ‘class’ rather than by name, for example “my children” or “my grandchildren”. However, it is also quite common for a limit to be set per beneficiary as to extent of costs that may be funded.

The ‘capital’ you put into the Trust through your Will can either be available to fund the education costs or can be ‘reserved’ (in whole or in part) to pass back into your Estate or to other beneficiaries when the education purpose has been fulfilled.

If the class of beneficiaries named is other than your children, ‘class closing’ provisions need to be included in the terms of your Will to prevent the Trust from having to continue for an unduly extended time.

How is an Education Testamentary Trust taxed?

Income tax concessions apply to testamentary trusts, allowing individual beneficiaries under 18 years to receive trust income (or the benefit of such income) without being subject to the ‘penalty’ top marginal rate of tax. A tax liability may still arise if the extent of benefits from the Education Testamentary Trust is over the tax-free threshold, or if the beneficiary has other personal income.

What next?

If you would like to speak to someone about putting in place an Education Testamentary Trust, call us on **1300 654 590** or email us at wehelp@adlvlaw.com.au.

Further information can also be found on our website at www.adlvlaw.com.au.