
Trusts designed to maximise income tax, protect assets and wealth is not a new scenario, but a recent report commissioned by the Australian Taxation Office suggests that wealthy people are avoiding paying billions in tax by using private trusts.

The report prepared by RMIT University said income from trusts was more than $340 billion in 2013-14, but there is no register of trusts in Australia and failure to lodge tax returns is a key problem.

The mechanism for taxing trusts in Australia was introduced into the Income Tax Assessment Act in 1922.

Trusts are widely used in Australia for investment, real estate and business purposes to hold a property for individuals, families and companies.

The report found 73 per cent of trusts in Australia is discretionary trusts involved in trading or investment. That is in contrast to other countries where they are mostly used for the administration of wills and deceased estates, donations to charities and to provide income for people unable to manage their own affairs.

The report revealed in 2015-16, there were nearly 850,000 trusts in Australia — one for every 29 people, with assets of more than $3 trillion — and the prediction is there could be more than a million trusts by 2022.

RELATED ARTICLE: Investor and Property Acquisition Tax Investment Specialists TLK Partners Sydney

Leading Australian financial and wealth expert Thomas Mousa, a partner at Sydney-based TLK Partners said, “it is perfectly legal for trusts to hold assets and maximise taxation within the realms of the laws of Australia.”

One of the authors of the report, John Glover, a professor of law at RMIT, said Australia was behind other countries when it came to the regulation of trusts.

“The largest part of the tax office’s information about trusts comes through the voluntary lodgement of trust tax returns and that’s an inadequate way to proceed,” Glover said.

Mousa retorted, “The suggestion that hundreds of thousands of Australians are doing the wrong thing; is fear mongering to the general population and is just plain wrong.”

“For instance, the advice TLK Partners provides to its clients is legal, using the laws of Australia to protect its clients; assets and to maximise their wealth. The laws surrounding trusts have been around since the 1920s and if this were such an issue the government would have changed the laws already,” Mousa explained.

RELATED ARTICLE: Depreciating Assets Property Tax Aged Care Advisors Kingsgrove NSW

The report, “Current issues with trusts and the tax system”, said some wealthy Australians and high net wealth individuals were putting money into discretionary trusts to manipulate the tax system so they could pay less tax.

“It’s absurd,” Mousa exclaimed, “the suggestion that wealthy Australians are manipulating the system when playing by the rules; is ludicrous. I read these reports and think I’m taking crazy pills,” Mousa said.

There seem to be many misconceptions with respect to trusts and taxation. Income from trusts is often taxed at the corporate tax rate of 30 per cent, compared to the highest marginal income tax rate of 45 per cent and some trusts could also be taxed at lower rates of 15 per cent for superannuation trusts.

The report said “income tax shuffles” were used to understate earnings by exploiting differences in the definition of income under tax law and trusts law.

This can occur when a trustee uses deductions from the trust’s taxable (net) income to lower the distributable income paid to the beneficiaries. Income splitting is another tactic used to reduce tax when the trustee makes payments to the beneficiaries with the lowest earnings.

“All perfectly legal,” Mousa exclaims, “these tactics are available to every Australian today, they have been for almost 100 years,” Mousa said.

A conservative estimate indicates that $672 million to $1.2 billion of tax revenue could be sheltered annually,” the report found.

In five ATO investigations reviewed by the academics, it was estimated $195 million in tax was avoided on an income of $729 million.

The ATO thanked RMIT for its report but said it did not agree with all the findings or methodologies adopted.

“Reports like these can be dangerous, especially when they gain traction in the media,” Mousa said.

“The aim of TLK Partners has always been to maximise the wealth of every Australian using every legal means available to them, one of many strategies we may adopt could involve the use of private trusts, depending on the client’s individual requirements,” Mousa concluded.

TLK Partners Wealth Management Companies Kingsgrove, Beverly Hills | Tax Accountant & Agent | Property Advisers are financial management,
retirement planning and wealth advisers serving enterprises and private individuals who hope to take care of their future through sound financial management. Visit their website or contact them at (02) 8090 4324 for an appointment to discuss your financial management and investment needs.

This material is of a general nature only, and it does not take into consideration your financial circumstances, needs or objectives. Before making any decision based on this content, you should assess your own circumstances, seek professional advice or contact our office to be directed to the appropriate professional. Whilst all care has been taken in presenting the material neither TLK Partners or its associated entities guarantee that the material is free of error and, the information may have changed since being published.

Syndicated by Baxton Media, the Market Influencers.