

Charitable purpose trusts essay

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Charitable purpose trusts Advantages of the charitable purpose trust

Certainty of Objects Courts are more relaxed in the approach for the need of there to be certainty of objects in a charitable trusts. While non-charitable trusts must have objects, which are certain, gifts made exclusively for charitable purposes are valid even though the exact purposes may not have been identified. Thus a gift to trustees ‘ for charity’ will be valid. The Perpetuity Rule Charitable trusts are valid even though they may last for an infinite period of time.

They are also exempt from the rule against inalienability. However, charitable gifts, like private gifts are subject to the rule against remote vesting. The Cy Pres Rule In a situation where a private trust has failed either wholly or partly, there will be a resulting trust for the settlor or his estate. Where property is given for charitable purposes and these cannot be carried out in the precise manner intended, then it will simply go to a charitable purpose that is deemed to be similar. Thus, the Cy pres doctrine is an alternative to the resulting trust principle. Fiscal Privileges a variety of tax relief’s are enjoyed by both charitable bodies and members of the public who donate funds for charitable purposes. Charities are exempt from income tax on investment and corporation tax. They are also exempt from the capital gains tax, stamp duty tax and national insurance surcharge Finance Act 1977.

2. 1 Is the trust for the public benefit? Oppenheim – Lord Simmonds – test with two limbs: 1. Possible beneficiaries must not be numerically negligible 2. Quality which distinguishes beneficiaries from other members of community must not arise from their relationship with a particular individual or company

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(propositus) Thompson v FCT – Dixon J distinguishes between groups which arise because of personal ties and groups which arise from a common calling (public/private distinction) 2. Does trust fall within category within spirit of Statute of Charitable Uses? Lord Macnaughten in Pemsel says there are 4 broad categories 1. Relief of poverty 2.

Advancement of education 3. Advancement of religion 4. Other purposes beneficial to the community Must decide whether particular trust fits within any of these categories.

This is still applicable test in Australia: Chester Note political purposes are not charitable: McGovern v AG. Must show consensus as to change to law or policy in order to be charitable: Public Trustee v AG (NSW) 2. 2. 1 Relief of poverty Statute of Charitable Uses actually says “ relief of aged, impotent and poor” people Do not have to mention “ poverty” as long as trust mentions “ relieving” or “ ameliorating” conditions: Downing v FCT Relief of those who are unwell also fits within this category – do not have to be poor and unwell, as long as the relief of those who are unwell is for public benefit: Re Resch’s Will Trusts