



## MINISTRY OF SOCIAL DEVELOPMENT

*Te Manatū Whakahiato Ora*

### FACTSHEET

October 2011

#### **Abolishing Gift Duty and the effect on Benefits- It is Business as Usual – MSD rules remain unchanged**

Gift duty is a duty (a bit like a tax) charged on gifts of more than \$27,000 made by a person in any one year. The Government abolished gift duty from 1 October 2011.

Inland Revenue administers a number of Acts, including the Estate & Gift Duties Act, which contained the requirement for gift duty. That Act was changed from 1 October 2011. The Ministry of Social Development (MSD) administers entitlement to benefits, through the Social Security Act 1964 (the Act), a completely separate Act. Although duty rules changed, MSD benefit rules stayed the same.

#### **Key Points**

- Abolishing gift duty was a change in the Estate & Gift Duties Act. There was no equivalent change in social security legislation.
- Entitlement to MSD benefits and subsidies is generally administered through the Social Security Act 1964, not the Estate & Gift Duties Act and not any taxation Act for that matter. There are key differences in how income is defined between these Acts. Income for benefit purposes is different to income for tax and duty purposes.
- The social security system operates on the principle that people should look to their own resources first before seeking assistance from the state.
- Under the Act, there is no 'allowable gifting' amount for general benefits. All available resources are required to be used to help the client support themselves. This approach did not change with the abolition of gift duty. It is a separate Act.
- Residential Care Subsidies have a small amount of allowed gifting, per application. From 1 July 2011, allowed gifts are \$6,000 per year per application (*to 30 June 2011: \$5,500*) for gifts made in any of the last five years, and \$27,000 per year per application for gifts made more than five years ago. This \$27,000 gift allowance is not averaged over missed years.
- The allowed gifting for Residential Care Subsidies did not change as a result of the abolition of gift duty. Any amount over the allowed gifting in any year may affect entitlement, depending on the figures involved.
- Because gift duty was abolished, MSD expects that more people will use gifting to manage their assets and finances. However, if clients gift assets to any party, they need to be aware that their entitlements to financial assistance could be affected.
- MSD will continue to ask for documents from clients or third parties, to assess the impact that gifting has had on clients' entitlements to financial help through MSD.

If you need more information on allowed gifting and Residential Care Subsidies, please phone 0800 999 727