



Trusts

A trust is an obligation for a person or other entity to hold property or assets for beneficiaries.

Trusts, trustees and beneficiaries



An overview of the role of trusts, trustees and beneficiaries.

Trusts – registering and reporting for tax



How trustees must manage a trust's tax affairs, including registering and reporting.

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QC 23082

Trusts, trustees and beneficiaries

An overview of the role of trusts, trustees and beneficiaries.

Last updated 31 January 2024

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Trusts

Trusts are widely used for investment and business purposes.

A trust is an obligation imposed on a person or other entity to hold property for the benefit of beneficiaries. While in legal terms a trust is a relationship not a legal entity, trusts are treated as taxpayer entities for the purposes of tax administration.

Trustees

The trustee(s) (there may be more than one) of a trust may be a person or a company (the latter is known as a corporate trustee). In either case, the trustee must be legally capable of holding trust property in their own right. The trustee holds the trust property for the benefit of the beneficiaries.

Where the trust is established by deed (which in the case of a deceased estate is the will), the trustee must deal with the trust property in line with the intentions of the settlor as set out in the trust deed. They must also act in accordance with the relevant state or territory law regulating trusts, and with any other applicable law, including tax law.

Under trust law, trustees are:

- personally liable for the debts of the trusts they administer, and
- entitled to be indemnified out of the trust property for liabilities incurred in the proper exercise of the trustee's powers (except where a breach of trust has occurred).

Under tax law, the trustee is responsible for managing the trust's tax affairs, including registering the trust in the tax system, lodging trust tax returns and paying some tax liabilities.

Beneficiaries

A trust beneficiary can be a person, a company or the trustee of another trust.

The trustee may also be a beneficiary, but not the sole beneficiary unless there is more than one trustee.

Beneficiaries may have an entitlement to trust income or capital that is set out in the trust deed or they may acquire an entitlement because the trustee exercises a discretion to pay them income or capital.

Generally, the beneficiaries are taxed on the net income of a trust based on their share of the trust's income – regardless of when or whether the income is actually paid to them.

Next:

- Trust income

Trust vesting



What trust vesting means, what happens when it occurs, and whether the vesting rules can be changed.

QC 23084

Trust vesting

What trust vesting means, what happens when it occurs, and whether the vesting rules can be changed.

Last updated 11 February 2019

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What vesting means

A trust deed usually specifies a date, or an event (such as the youngest beneficiary attaining a certain age), on which the interests in the trust property must vest. The deed may describe this as the 'vesting date' or 'termination date'.

On vesting, the beneficial interests in the property of the trust become fixed. This is to avoid breaching the 'rule against perpetuities'. You should check your trust deed so that you are aware of when your trust will vest.

When a trust vests

What happens when a trust vests will depend on the terms of the trust. For example, the trust deed may direct that, on the vesting day, the trustee is to end the trust by distributing the trust property to particular beneficiaries or it may provide that the trustee continues to hold the trust property on trust from this date for certain beneficiaries.

The vesting of the trust does not always end the trust or create a new trust. If the trustee is permitted by the trust deed to hold trust property for specified beneficiaries after the vesting date, the same underlying trust relationship continues although the duties of the trustee will have changed. For example, the trustee will no longer have any discretionary powers to appoint income or capital after vesting.

There may be income tax implications of the trust vesting depending on the trust deed, including capital gains tax (CGT) consequences. Our views on the income tax consequences of a trust vesting are set out in [Taxation Ruling TR 2018/6 Income Tax: Trust Vesting – amending the vesting date and consequences of a trust vesting](#)

If the vesting of the trust has not resulted in a CGT event happening or led to the creation of a new trust, the trust continues to use its current trust registrations (ABN/TFN/GST).

Provisions of the trust deed dealing with vesting

You might have the power under your deed to amend the provisions that deal with vesting, including the vesting date. Determining this requires consideration of the terms of the trust deed, including any specific and general powers of the trustee and any relevant exceptions to those powers.

If the trust deed does not provide you with powers to extend or bring forward the vesting date, you will need to approach the supreme court in your state or territory to make any changes to the vesting date.

Continuing to administer the trust in the same manner as it was administered before the vesting date will not extend the vesting date.

It's too late to change the vesting date or vesting clause of a trust **after** it has vested.

Validly extended vesting dates

Amending the vesting date with a valid exercise of power in a trust deed or the approval of a relevant court prior to the trust vesting, will not cause CGT event E1 to happen or create a new trust.

Administrative approach on trusts vesting

We want to support trustees and beneficiaries who engage with us and want to get their tax affairs in order.

You are encouraged to contact us before you lodge your return if you have any concerns whether your trust may have vested or is about to vest. We will work with you to get it right.

We won't devote compliance resources solely to apply TR 2018/6 *Income Tax: Trust vesting – consequences of a trust vesting* in relation to trusts that vested before the issue of the final ruling. However, we will act consistently with the views set out in TR 2018/6 where the Commissioner is required to:

- issue or amend assessments (if we identify other tax risks in relation to the trust during compliance activities that affect its net income and to whom it is assessed)
- state a view (for example in a private ruling or in submissions in a litigation matter).

We won't apply penalties that trustees or beneficiaries may be liable to pay where the parties engage with us and have a compliance history that shows they have been generally compliant with their tax obligations. We also won't assess interest where it can be established, or the Commissioner can reasonably be satisfied, that income tax has been paid on the net income of the trust that is consistent with what we consider to be correctly payable.

What you need to do

- You need to carefully check the trust deed to determine the vesting date and what action the trustee must take on vesting. We recommend that you regularly review your trust deed, but this is particularly important if there has been, or is proposed to be, a change in trustee or any other amendments to your trust deed.

- Understand your obligations on vesting as the trustee. Ignoring or being unaware of the trust vesting date can have significant tax and trust law implications for both trustees and beneficiaries. The best way to prevent any issues arising is to check the vesting date and vesting clause in your trust deed. This will allow you time to seek professional advice if the requirements are not clear, and make preparations or amendments to the trust deed as required.
- If the vesting date for your trust has already passed, you may want to seek professional advice about the legal implications of your trust vesting.
- You need to consider taking further action if you become aware of any issues. This may include
 - amending any relevant assessments that are within period of review (your amendment request should include the name of the trust that has vested)
 - contacting us for advice if you have questions or concerns about the tax consequences of your trust vesting.

You can apply for a private ruling, request an early engagement discussion or write to us at the address below.

Australian Taxation Office

GPO Box 9990

[insert the name and postcode of your capital city]

For example:

Australian Taxation Office

GPO Box 9990

SYDNEY NSW 2001

Next steps:

- Early engagement
- Making a voluntary disclosure
- Applying for a private binding ruling
- Request an amendment to a business or super tax return

Trusts registration and reporting obligations

How trustees must manage a trust's tax affairs, including registering and reporting.

Last updated 30 January 2020

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Trustees and beneficiaries

The **trustee** is responsible for managing the trust's tax affairs, including registering the trust in the tax system, lodging trust tax returns and paying some tax liabilities.

The **beneficiaries** include their share of the trust's net income in their tax returns and may need to pay instalments on their expected tax liability through the pay as you go (PAYG) instalment system.

Special rules apply to closely held trusts or where a beneficiary is a non-resident.

If a trust is carrying on a business, the trustee may have employer obligations.

Registration

A trust should have its own tax file number (TFN), which the trustee uses in lodging income tax returns for the trust. A trust is also entitled to an Australian business number (ABN) if the trust is carrying on an enterprise.

The trustee registers for the trust's TFN and ABN in their capacity as trustee. This registration is separate from any registration the trustee may require for other capacities they may act in, including acting on their own behalf.

All trusts will automatically have 'The Trustee for...' added to the name of the trust when the ABN is registered, as the trustee is responsible for the tax obligations of the trust.

PAYG instalments

Trusts are not liable to pay PAYG instalments. Instead, the beneficiaries (or the trustee when assessed on their behalf) may have to pay instalments based on their share of the trust's instalment income.

Non-resident withholding tax

If a non-resident beneficiary is presently entitled to dividends, interest or royalties included in the trust income, the trustee must withhold tax and remit it to the ATO. The trustee may need to lodge a PAYG withholding from interest, dividend and royalty payments paid to non-residents – annual report.

Tax returns

A trustee is required to lodge a trust income tax return, regardless of the amount of net income involved, unless we advise that a return is not required.

If the trustee is liable for tax they will receive an income tax assessment as trustee that is separate to their own assessment as an individual or corporate tax entity.

See also

- Trust tax return instructions

- *PS LA 2000/2 An exemption for the trustees of some trust estates from the requirement to furnish a tax return on behalf of the trust estate*
- Streamlined trust tax return for custodians with non-resident beneficiaries

Beneficiaries generally include their share of the trust's net income in the partnership/trust distributions section of their tax return.

See also

- Tax rates
- Lodging your tax return

Closely held trusts – withholding and reporting

The following additional requirements apply to trustees of closely held trusts.

Tax file number (TFN) withholding

The trustee of a closely held trust, including a family trust, must withhold tax from payments to beneficiaries who have not provided their TFN to the trust.

See also

- TFN withholding for closely held trusts

Trustee beneficiaries

The trustee of a closely held trust (other than a family trust) with one or more trustee beneficiaries who are presently entitled to a share of the income or a tax-preferred amount (or both) of the trust must provide us with certain details of the trustee beneficiaries.

See also

- Trustee beneficiary reporting rules

Trustee beneficiary non-disclosure tax

This tax is payable if:

- the trustee of a closely held trust (other than a family trust) fails to lodge a correct trustee beneficiary (TB) statement within the specified period in respect of each trustee beneficiary's share of net income, or
- a share of the net income of a closely held trust (including a family trust) is included in the assessable income of a trustee beneficiary under section 97 of the *Income Tax Assessment Act 1936* and the trustee of the closely held trust becomes presently entitled to an amount that is reasonably attributable to the whole or a part of the untaxed part of the share (referred to as a 'round robin' or 'circular trust distribution').

If the trustee of a closely held trust is liable for trustee beneficiary non-disclosure tax, the trustee beneficiary's share of net income is not included in their assessable income under section 97 (except where the share of net income is assessable under sections 99, 99A and 99B).

See also

- Rules for closely held trusts

Employer obligations

If a trust employs people, the trustee will have employer obligations, including pay as you go (PAYG) withholding, paying super contributions for any eligible employees and reporting and paying tax on fringe benefits.

See also

- Your workers

Streamlined trust tax return for custodians with non-resident beneficiaries



Certain custodians can lodge a single trust tax return for the separate net incomes of multiple trust estates

Closely held trusts



Detailed information about closely-held trusts.

QC 23089

Streamlined trust tax return for custodians with non-resident beneficiaries

Certain custodians can lodge a single trust tax return for the separate net incomes of multiple trust estates

Last updated 23 July 2025

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This information is for trustees who are:

- 'custodians' – that is, they provide a predominantly custodial or depository service (as defined in subsection 12-390 (9) in Schedule 1 to the *Taxation Administration Act 1953*)
- assessable under subsections 98(3) or 98(4) of the *Income Tax Assessment Act (ITAA) 1936* for trust income that relates to non-resident beneficiaries.

These custodians can include in a single trust tax return the separate net incomes of multiple trust estates with non-resident beneficiaries.

The practical benefit is that when the resident custodian holds separate accounts for multiple unrelated clients of a non-resident global custodian (each of which may represent a separate trust

estate), it will not be necessary to lodge a separate return for every trust estate.

How the streamlined arrangement works

If a custodian with subsections 98(3) or 98(4) liabilities has not previously lodged a return under this arrangement, please contact us via LargeServiceTeam@ato.gov.au to request a specific identifier to be issued.

We will establish sub-accounts for each separate trust estate, based on the information provided by the custodian about their trustee relationships involving non-resident beneficiaries.

The custodian lodges a single tax return for what may comprise multiple trust estates. The return must include a separate statement of distribution for each beneficiary, but only with the information specified below.

This streamlined approach means that we may require additional information from time to time for our compliance assurance activities. This would be obtained under separate arrangements.

Completing the trust tax return

Use the trust tax return for the relevant income year but complete only the following items (based on the **Trust tax return 2020**):

- **Tax file number (TFN)** or specific identifier in lieu of TFN to identify the custodian in its capacity as trustee. This is created by request us at LargeServiceTeam@ato.gov.au
- **Name of trust:** name identifying the cluster of trusts (for example, 'X Custodian Co as trustee for non-resident beneficiaries')
- **Current postal address:** of custodian, as trustee
- **Full name of the trustee to whom notices should be sent**
- **Daytime contact phone number:** of custodian, as trustee
- **Type of trust:** 'F' for fixed trusts
- **Is any tax payable by the trustee?**
- **Final tax return.**

- **14 Other Australian income – give details:** The total of all assessable income derived by the custodian in its trustee capacity for the non-resident beneficiaries shown in the return, including from capital gains. This is a specific departure from the usual requirement to report capital gains at a separate label.
- **15 Total of items 5 to 14:** under the streamlined arrangement this must be the same as the value at item 14.
- **20 Net Australian income or loss – other than capital gains:** under the streamlined arrangement this must be the same as the values at items 14 and 15.
- **26 Total net income or loss:** this item is auto-filled by the system based on previous labels. Under the streamlined arrangement, the values at items 14, 15, 20 and 26 must be the same.
- **56 Statement of distribution:** Complete a statement of distribution for each separate trust estate. Typically, these would relate to a global custodian in its separate capacities regarding different clients, or to direct non-resident individual or company beneficiaries.
 - **Name identifying the beneficiary of each trust estate:** for example, 'Y Co global custodian as trustee for [name of non-resident client or group of clients]'.
 - **Business address of global custodian trustee:** non-resident individual or non-resident company beneficiary.
 - **Assessment calculation code (label V):** Code 138, 139 or 140 as applicable to the beneficiary type. Appropriate tax rates will be applied based on the codes. The streamlined arrangement will not affect the applicable tax rates relevant to section 98, with subsection 98(4) applying for each non-resident trustee beneficiary.
 - **Share of income from Primary production (label A) and/or Non-primary production (label B):** Under the streamlined arrangement, the total of all labels **A** and/or **B** in the statements of distribution in the return should equal the total net income or loss figure at item 26.
 - **Non-resident beneficiary additional information (labels J and K).**

- **TB statement:** for each trustee beneficiary (TB), indicate if you will be making a TB statement.
- **Taxpayer's Declaration** and/or **Tax Agent's Declaration**.

Lodging the return

Lodge the return with your usual client relationship contact, who will liaise with our investment trusts team.

QC 46531

Family trusts

Concessional treatment applies to some transactions where trusts have validly elected to become family trusts.

Last updated 19 November 2024

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A family trust for tax purposes is one whose trustee has made a valid [family trust election](#) (FTE). It's not sufficient to simply include the

words 'family trust' in your trust's name.

A trustee only makes a valid FTE where they have satisfied the relevant tests, and made an election in writing in the approved form. Once the election has been made, it cannot be varied or revoked except in limited circumstances.

The FTE entitles the trust to access certain tax concessions. The trade-off is that [family trust distribution tax](#) (FTDT) is imposed when distributions are made outside the [family group](#).

There are 5 main reasons to become a family trust.

The trust loss measures – a non-fixed trust has a carried forward tax loss, or certain debt deductions, but the trust couldn't satisfy the required trust loss tests to recoup the loss. By becoming a family trust, the trust is subject to concessional treatment and only one of the trust loss tests – the income injection test – applies, and only in a modified way.

A company loss tracing concession – the company loss provisions allow a company that has a non-fixed trust as a shareholder to benefit from a tracing concession where that non-fixed trust is a family trust. Broadly, the tracing concession applies so that where the relevant interests in a company are held by the trustee of a family trust, a single notional entity that is a person will be taken to own the interests. This means that there's no need to trace past the family trust.

The holding period rules regulating access to franking credits – the holding period rules allow the trustee and beneficiaries of a family trust that receives a franked dividend or franked non-share dividend to benefit from a franking credit concession. Broadly, unless the trustee of a non-fixed trust has elected for it to be a family trust, a beneficiary of the trust who doesn't have a vested and indefeasible interest in so much of the capital of the trust as is comprised by the shares giving rise to the dividends won't be a 'qualified person' for the purposes of the holding period rule. Someone who is not a 'qualified person' is denied the benefit of the franking credits attached to dividends paid on shares, or interests in shares, acquired by trusts (other than widely held public share-trading trusts).

Trustee beneficiary reporting (TBR) rules – generally, these rules require the trustee of a closely held trust to advise the ATO of certain details. These are details about each trustee beneficiary that is presently entitled to a share of a tax preferred amount of the trust, or

has included in its assessable income a share of the net income of the trust comprising an 'untaxed part'. This advice must be provided by the due date for lodgment of the closely held trust's tax return. Trusts that have made an FTE or an interposed entity election (IEE) (among others) are excluded from having to comply with the TBR rules.

Small business restructure roll-over – from 1 July 2016 small business entities can restructure their business by moving active assets into, or out of, a trust, company, partnership, or a combination, without adverse capital gains tax consequences. There are requirements that must be met in order to access the rollover. One of these is that there is no material change in the ultimate economic ownership of an asset. Special rules apply in this context to discretionary trusts that have made FTEs.

While any kind of trust can elect to be a family trust, the need to pass the family control test restricts the choice to a trust that is not widely held and where a specific family effectively controls the trust.

FTDT at the top marginal rate is payable where a distribution is made to a party that is not a member of the family group of the specified individual named in the FTE.

The trustee of a family trust will also be liable to pay trustee beneficiary non-disclosure tax if it makes a circular trust distribution.

Family trust elections

A trust is a family trust at any time when a family trust election (FTE) for the trust is in force. Generally, an FTE is in force from the beginning of the income year specified in the FTE (the election commencement time). The FTE must also specify an individual whose family group is taken into account in relation to the election.

The income year specified in the FTE must have ended before the FTE is made. This is because an FTE can only be made if the trust passes the family control test (FCT) at the end of the specified income year. The FTE can specify an earlier income year from when the election is to commence, provided that from the beginning of the specified income year until 30 June of the income year immediately preceding that in which the election is made, both:

- the trust passes the FCT

- any conferrals of present entitlement to income or capital during the period, or actual distributions of such amounts, have been made to the specified individual or members of their family group.

Generally, an FTE is in force at all times after the 'election commencement time'.

The election commencement time is usually the beginning of the income year specified in the FTE. However, if the FCT is not passed for the whole of the specified income year, the election commencement time is the time from which the trust passes the FCT continuously for the rest of the income year.

These rules apply to FTEs specifying the 2005 and later income years.

The ability to make an FTE specifying an earlier year of income can impact on an FTDT liability that would otherwise arise but for that election.

For more information, see [FTDT examples: FTE reversing FTDT liability](#).

2004 or earlier income years

FTEs for the 2004 or earlier income years could only be backdated to an earlier year by lodging in accordance with Practice Statement PS LA 2004/1 (GA) (Withdrawn). Before that practice statement, subject to certain transitional rules, FTEs could only be made for the earliest year for which a tax return had not yet been lodged. In particular, the election couldn't be made for the specified income year if it was made after the entity's return for that year had been lodged.

For more information, see [Family trust election, revocation or variation 2021](#) (NAT 2787).

The individual specified in the election

An FTE must specify a person as the individual whose family group is to be taken into account in relation to the election (referred to as the specified individual, primary individual or test individual throughout Schedule 2F).

The specified individual has no additional rights or responsibilities and doesn't even need to be directly associated with the trust.

Only one individual can be specified in an FTE.

Where an FTE is being made in respect of an earlier year of income, the specified individual's date of birth must be on or before the beginning of the income year specified for the commencement of the FTE.

The specified individual must also be alive at the time the election is made.

The FTE isn't affected by the death of the individual specified in the FTE – the members of the family group are still determined by reference to that individual.

FTE revocation

An FTE can be revoked where the family trust is a fixed trust or where the FTE wasn't required for recouping tax losses, deducting bad debts or accessing franking credits (subject to the satisfaction of certain conditions).

Generally, revocations can be made until the end of the fourth income year after the income year that was specified in the original FTE. These revocations must be made in the trust's tax return for the income year from which the revocation is to be effective. A tax return that has already been lodged can't be amended to include an FTE revocation.

If the entity isn't required to lodge a tax return for the income year, the revocation must be given to the ATO within 2 months of the end of that income year, or such later day as the Commissioner of Taxation allows.

A new FTE can't be made for a trust that has previously had an FTE revoked.

FTE variation

The specified individual can be varied once, but only once, subject to certain conditions, including that both:

- the new specified individual was a member of the family of the original specified individual at the election commencement time
- there have been no conferrals of present entitlement, or distributions of income or capital, by the trustee of the family trust or an entity that made an IEE in relation to the trust to parties outside the new specified individual's family group during the period in which the election has been in force.

Also, the specified individual can be varied if, as a result of a family law order, agreement or award arising from a marriage or relationship breakdown, the control of the trust passes to the new specified individual or the new specified individual and members of their family.

Generally, variations can be made until the end of the fourth income year after the income year that was specified in the original election. Variations must be made in the trust's tax return for the income year from which the variation is to be effective. A tax return that has already been lodged can't be amended to include an FTE variation.

If the entity isn't required to lodge a tax return for the income year, the variation must be given to the ATO within 2 months of the end of the income year, or such later day as the Commissioner allows.

Family control test

For the purposes of making an FTE or an IEE, a trust passes the family control test (FCT) at a point in time when some or all of the following people control the trust:

- the individual specified in the relevant FTE
- members of the specified individual's [family](#)
- a professional legal or financial adviser to the family.

The FCT looks at, among other things, who can control the application of income or capital of the trust.

For this reason a professional legal or financial adviser might be part of the controlling group of a family trust: the adviser might, for example, be one of the directors of the trustee company. However, a person can only be a controller as a professional legal or financial adviser if they became a controller because of their status as such an adviser, rather than in a personal capacity.

A company or partnership passes the FCT when some, or all, of the specified individual, members of their family and family trusts that have made an FTE in favour of the specified individual, beneficially hold between them, directly or indirectly, fixed entitlements to more than 50% of the income or capital of the company or partnership.

The FCT for companies and partnerships can't be satisfied with a family trust that has made an FTE in favour of a different individual,

even if that different individual is related to the original specified individual.

Because the FCT for companies and partnerships only looks at who beneficially owns interests in the entity, any control influenced by a professional legal or financial adviser isn't relevant to determining whether the family controls a company or partnership.

Family of the specified individual

The family of the individual specified in the relevant FTE consists of that person (the test individual) and all of the following (if applicable):

1. any parent, grandparent, brother or sister of the specified individual or the specified individual's spouse
2. any nephew, niece or child of the specified individual or the specified individual's spouse
3. any lineal descendant of a nephew, niece or child referred to in point 2
4. the spouse of the specified individual or of anyone who is a member of the specified individual's family because of points 1, 2 and 3.

'Any lineal descendant' includes any descendant (of an individual) in a direct line of relationship flowing downwards. This starts with an individual's child (including an adopted child, stepchild or ex-nuptial child) and extends to include a grandchild, a great-grandchild and so on. They aren't restricted to a descendant on either a patriarchal or matriarchal basis.

A person doesn't cease to be a family member merely because of the death of any other family member.


The spouse of the deceased specified individual will continue to be a member of the family, provided they were the spouse at the time of death.

If the individual specified in an FTE is legally married to but separated from their spouse, their spouse remains a member of the family. If the specified individual divorces after being legally married, their former spouse won't be a member of the family. However, the former spouse will remain a member of the family group.

If the spouse of the deceased specified individual or a member of their family becomes the spouse of a person who is not a member of the deceased specified individual's family, the spouse will cease to be a member of the family.

Instead, the former spouse of the deceased specified individual or a member of their family becomes a member of the deceased specified individual's family group.

This means that the former spouse of the deceased specified individual won't have concessionary treatment under the income injection test.

 This diagram shows the 'family' that applied from 1 July 2007 as defined in section 272-95 of the Income Tax Assessment Act 1936, as described above under the heading titled Family of the specified individual.

Family group

For the purposes of determining whether a conferral or distribution has been made, the following people and entities are generally members of the family group of the individual specified in the FTE:

- the members of the specified individual's family
- former members of the specified individual's family who are no longer members due to a breakdown in a marriage or relationship, or death (including former spouses, former widows and widowers and former stepchildren)
- the family trust for which the family trust election has been made
- other family trusts with the same individual specified in their FTE
- trusts, companies or partnerships that have made an IEE to become a member of the specified individual's family group
- trusts, companies or partnerships (other than non-fixed trusts) where certain members of the family group have fixed entitlements directly or indirectly, and for their own benefit, to all of the income and capital of the trust, company or partnership
- deductible gift recipients in Australia
- bodies all of whose income is exempt from income tax.

Non-fixed trusts with a different individual specified in the FTE or IEE will not be part of the specified individual's family group. This will be the case even if the other individual is a family member of the specified individual.

Interposed entity elections

There are 2 main reasons to make an interposed entity election (IEE).

Firstly, to make an entity a member of the family group of the individual specified in an FTE. This means that the trustee of the family trust can confer present entitlement to, or make distributions of, income or capital of the family trust on or to the entity that made the IEE without the trustee becoming liable for FTD.

Secondly, to exclude a trust from having to comply with the trustee beneficiary reporting rules in Division 6D of Part III of the *Income Tax Assessment Act 1936* (ITAA 1936).

An IEE can be made in respect of a trust that has an FTE in force. The interposed entity (company, partnership or trust) can specify an earlier income year from when the election is to commence provided that, from the beginning of the specified income year until 30 June of the income year immediately preceding that in which the election is made, both:

- the entity passes the family control test
- any conferrals of present entitlement to income or capital of the trust during the period, or actual distributions of such amounts, have been made on or to the individual specified in the FTE or members of that individual's family group.

Generally, an IEE is in force at all times after the 'election commencement time'.

The election commencement time is usually the beginning of the specified day in the IEE. However, if the FCT is not passed for the whole of the specified income year, the election commencement time is the earliest time from which the company, partnership or trust passes the FCT continuously for the remainder of the income year.

The death of an individual specified in an FTE of a family trust doesn't prevent any other trust, company or partnership from making an

interposed entity election (IEE) to be included in that individual's family group.

A company, partnership or trust may make more than one IEE provided each family trust in respect of which the entity is making the IEE has the same individual specified in its FTE.

A family trust can make an IEE to be included in the family group of an individual who is different from the person specified in the trust's FTE, however consequently this will effectively narrow the family group of the family trust making the IEE to those entities which are common to both specified individuals' family groups.

A super fund may make an IEE provided it passes the FCT.

As with an FTE, an IEE may start from an earlier income year to bring the entity within the family group of the specified individual. This enables the entity to access the corresponding benefits of being in the family group from the earlier income year, providing the IEE can be validly made.

See [FTDT Examples: IEE reversing FTDT liability](#).

These rules apply to IEEs specifying the 2005 and later income years.

For more information, see [Interposed entity election or revocation 2021 \(NAT 2788\)](#).

IEE revocation

An IEE can be revoked where an entity was at the election commencement time, or becomes at a later time, a member of the family group of the specified individual (for instance, where members of the family have fixed entitlements, directly or indirectly, and for their own benefit, to all of the income and capital of the entity or where a family trust has the same specified individual as another family trust in relation to which it makes an IEE).

In addition to this, an IEE is taken to be automatically revoked if the FTE to which it relates is revoked.

Generally, revocations can be made until the end of the fourth income year after the income year that was specified in the original election.

These revocations must be made in the entity's tax return for the income year from which the revocation is to be effective. A tax return

that has already been lodged can't be amended to include an IEE revocation.

If the entity isn't required to lodge a return for the income year, the revocation must be given to the ATO within two months of the end of that income year, or such later day as the Commissioner of Taxation allows.

How to make, vary or revoke an FTE or IEE

An FTE or an IEE must be made in writing and in the approved form.

The approved form is one of the forms approved each year by the Commissioner for making, varying or revoking an FTE or making or revoking an IEE. The completed FTE or IEE must contain all the information specified on the form.

An FTE can only be made once for a trust. The trustee of a family trust is required to include the income year specified in the FTE on the trust tax return each year while the FTE remains in force. This is the same for companies, partnerships and trusts with IEEs.

For more information, see:

- Family trust election, revocation or variation 2021 (NAT 2787)
- Interposed entity election or revocation 2021 (NAT 2788).

Family trust distribution tax

Family trust distribution tax (FTDT) is payable where:

- a trustee of a trust has made an FTE
- a partnership's partners, a company or the trustee of another trust have made an IEE to be included in the family group of the individual specified in the FTE made by the family trust
- the trustee of the FTE trust, the trustee of the IEE trust, the partnership or the company distributes income or capital to an entity other than to the specified individual or members of the specified individual's family group.

FTDT can also apply to other transactions, such as payments, credits, loans and transfers of property, to the extent that the transaction exceeds the consideration given by the recipient in return. This can be

the case even if the recipient is not a beneficiary, shareholder or partner of the family trust or interposed entity. A reasonable salary, wage or other benefit (such as superannuation contributions or fringe benefits) provided to, or for the benefit of, an employee for work performed is not considered to be a distribution. **Taxation Determination TD 2017/20** provides guidance on the types of transactions that may be treated as distributions.

FTDT is payable at the top marginal rate of tax applying to individuals plus Medicare levy (currently 47%). It is paid on the amount or value of any such distributions or conferrals made by an electing entity at any time after the election made by the entity becomes effective. FTDT applies to the actual distribution made, inclusive of capital distributions, which may be different to the amount included in the family trust or interposed entity's tax return.

FTDT is generally due and payable 21 days after the date on which the distribution occurs, regardless of when the distribution is identified as having been subject to FTDT. Late payment of FTDT attracts the **general interest charge (GIC)** from 60 days after the FTDT became due and payable.

Each payment of FTDT must be accompanied by the **Family trust distribution tax payment advice (NAT 6175)**.

Avoiding FTDT

As a result of undertaking client engagement activities, outlined in **What attracts our attention**, we have seen a number of instances where FTDT liabilities could have been avoided by clients and their agents being more vigilant with respect to the elections they have in force.

Based on these instances we would encourage trustees and their agents to regularly consider and be aware of:

- elections that have already been made
- importance of identifying members of the specified individual's family group before making a distribution or annual trust resolutions
- retaining copies of elections, variations and revocations - note elections can be lodged with the ATO and you can contact us to check your elections details
- need for the election and whether it can and should be revoked

- specified individual and whether the person originally specified remains the most suitable person and if not consider varying this person in accordance with the required conditions
- timeframes to vary or revoke elections – noting there are limited timeframes to do this and once these time periods pass the elections and the specified individuals can't be changed
- effect of elections in force when planning a restructure or introduction of a third-party owner, as structural changes may impact the family group.

We would suggest that these matters should be considered at least annually, and elections not be 'set and forget' by trustees and their agents.

Examples showing how FTDT is applied

Example: FTE variation invalid triggering FTDT liability

The trustee of Trust P (which has an FTE specifying Peter and the 2010 income year) made distributions to Trust I (which has an FTE specifying Ingrid) in the 2017, 2018 and 2019 income years. While Peter and Ingrid are from the same family, their trusts are not part of the same family group.

In the 2017 income year Trust P lodged an FTE variation to vary the specified individual from Peter to Ingrid. However, the variation was found to be invalid as it wasn't made within the legislative timeframe.

Further Trust I was not able to lodge an IEE to be included in the same family group as Trust P as it had previously lodged an IEE nominating to join another family group.

As a result, an FTDT liability was triggered and raised for the 2017, 2018 and 2019 income years for Trust P.

Example: FTE variation and IEE revocation period lapsed triggering FTDT liability

The trustee of Trust M (which has an FTE specifying Matt) made distributions to Trust L (which has an FTE specifying Luke and the 2014 income year) for the 2016, 2017 and 2018 income years. Whilst Matt and Luke are from the same family their trusts are not part of the same family group.

Trust L was unable to lodge an FTE variation to vary the specified individual from Luke to Matt as the legislative timeframe within which to do this had lapsed.

Further, another trust, Trust N also has an FTE in place which specifies Luke as the primary individual. Trust L had made an IEE with Trust N, specifying the 2014 income year. Trust L was unable to revoke this IEE as the legislative timeframe within which to do this had lapsed.

As a result, Trust L was unable to vary the FTE or make another IEE to be included in the same family group as Trust M. This resulted in an FTDT liability being triggered and raised for the 2016, 2017 and 2018 income years for Trust M.

From these 2 examples, it's important to note that had the client or their agent carefully reviewed the elections they had in place each year before making distributions they could have avoided triggering an FTDT liability by being mindful of the rules and timeframes for varying and/or revoking their elections. We encourage clients with elections in place and their agents to be mindful of this to avoid possible FTDT in future years.

Example: FTE reversing FTDT liability

The trustee of Trust A (which has an FTE in force) distributes \$50,000 to the trustee of Trust B in the 2015 income year. Trust B is not a member of Trust A's family group, nor has Trust B made an FTE or IEE. Consequently, the trustee of Trust A becomes liable to pay FTDT on the \$50,000 distribution to Trust B.

In the 2016 income year, the trustee of Trust B makes an FTE specifying the same individual named in the FTE of Trust A and that Trust B be treated as a family trust at all times from the beginning of the 2014 income year. As a result of Trust B's FTE, it becomes part of the specified individual's family group.

As Trust B has an FTE in force from 1 July 2013, it is treated as having been a member of the family group in relation to the \$50,000 distribution made by the trustee of Trust A in the 2015 income year. Therefore, there is no FTDT liability for the trustee of Trust A.

The effect of making an FTE that is in force from an earlier year can extend beyond reversing an FTDT liability – it also can allow access to the tax concessions for family trusts

However, whilst an election can operate to reverse a FTDT liability incurred in the 2004–05 or subsequent income year, the ordinary amendment periods limit access to the tax concessions to income years within the applicable amendment period. That is, any retrospective access to the tax concessions is usually limited to either 2 or 4 years.

Example: IEE reversing FTDT liability

In the 2014 income year, Trust A (which has a FTE specifying Mike) distributes \$50,000 to Jones Pty Ltd.

Jones Pty Ltd hasn't made an IEE to be included in Mike's family group and is not otherwise a member of that family group.

Because Jones Pty Ltd is not a member of Mike's family group, the trustee of Trust A is liable to pay FTDT on the distribution to Jones Pty Ltd.

However, in the 2015 income year after becoming aware that an FTDT liability will arise on any distributions it receives from Trust A, Jones Pty Ltd decides to make an IEE specifying the 2014 income year in respect of Trust A, so as to become a member of Mike's family group. Jones Pty Ltd was able to make the IEE

specifying the earlier income year (2014) as it met the required conditions to do so.

As Jones Pty Ltd now has an IEE with Trust A and it's considered to be in force at the time of the 2014 distribution, the trustee of Trust A is no longer liable to FTDT.

Trustee beneficiary non-disclosure tax on circular trust distributions

From 1 July 2019, the trustee of a family trust, a trust that has made an interposed entity election or a trust that forms part of a family group will also be liable for trustee beneficiary non-disclosure tax if:

- a share of the net income of the trust is included in the assessable income of a trustee beneficiary (under section 97 of the ITAA 1936)
- they become presently entitled to an amount that is reasonably attributable to the whole or part of the untaxed part of that share (referred to as a 'round robin' or 'circular trust distribution').

For more information, see [Circular trust distribution](#).

QC 48752

Specific rules for some trusts

Understand the rules for certain types of trusts.

Last updated 23 July 2025

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[Unit trusts](#)

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Unit trusts

Unit trusts are used in many commercial arrangements, including managed investment schemes. Units can often be bought and sold in a way similar to shares in a company. Some and their unit holders like shareholders.

See also

- Unit trusts treated as corporate tax entities

Managed investment trusts

A (MIT) is a type of managed investment scheme.

A new tax system for MITs came into effect in May 2016. The new tax system is designed to reduce complexity and increase certainty for MITs and their investors.

See also

- Managed investment trusts – overview

Family trusts

A trust becomes a **family trust** when the trustee of the trust makes a 'family trust election'. To make the election, the trust must be controlled by a 'family group'.

Trusts that qualify as a family trust for the purposes of the trust loss provisions may benefit from .

However, (FTDT) applies to distributions made from these trusts if the trustee confers a present entitlement, or distributes income or capital, makes concessional loans or otherwise provides or allows the use of income or capital of the trust for less than its market value to a person or entity that is outside the trust's family group.

FTDT is payable by the trustee of the family trust at the highest marginal rate plus the Medicare levy. Beneficiaries that receive distributions on which FTDT was paid receive the distribution as non-assessable non-exempt income (against which they can't deduct expenses).

See also

- Family trust concessions

Deceased estates

A is technically not a trust while it is being administered, but is treated as a trust for tax purposes, with the executor or administrator of the estate taken to be the trustee.

See also:

- Deceased estates

Super funds

are generally trusts, and have trustees and beneficiaries (members). However, super funds are taxed differently to other types of trusts.

- Self-managed super funds

Charitable trusts

Some types of charitable funds must be established as trusts in order to qualify for charity tax concessions.

See also:

- Choosing your business structure

Special disability trusts

Immediate family members and carers can set up a to provide for the future care and accommodation needs of a person with a severe disability. The trustee is taxed at individual marginal rates.

See also:

- Reporting the income of a special disability trust

Unit trusts

Certain unit trusts are treated and taxed as corporate tax entities.

Managed investment trusts

Detailed information about managed investment trusts.

Distributions to tax exempt beneficiaries: anti-avoidance rules

Check the anti-avoidance rules in s100AA and 100AB preventing trustees from using tax-exempt entities to avoid tax.

Reporting the income of a special disability trust

How to complete the special disability trust tax return and individual return for the principal beneficiary.

Primary production trusts

When beneficiaries of a trust can access primary production income averaging and can deduct farm management deposits.

Unit trusts treated as corporate entities

Certain unit trusts are treated and taxed as corporate tax entities.

Last updated 24 May 2021

On this page

[Public trading trusts](#)

[Corporate unit trusts](#)

[Ceasing to be a public trading trust or a corporate unit trust](#)

[Trust losses](#)

Public trading trusts

Under Division 6C of Part III of the *Income Tax Assessment Act 1936* (ITAA 1936), a public trading trust (PTT) must be both:

- a trading trust (broadly, a trust that carries on activities other than holding solely passive investments such as shares, land and fixed interest assets); and
- a public unit trust.

PTTs lodge a company tax return using a company TFN.

Legislative amendments to modify Division 6C in 2016 resulted in some trusts ceasing to be public trading trusts for income years starting on, or after, 1 July 2016 ('affected trusts').

Trustees of these affected trusts must consider the impact of these changes on the trust's registration requirements and tax obligations.

An affected trust will still be treated as a corporate tax entity and lodge a company tax return using its current company TFN for income years on or after 1 July 2016 if it has made a choice, under Subdivision 713-C of the *Income Tax Assessment Act 1997*, to be the head company of an income tax consolidated group.

See also:

- Transitional rules for trusts that cease to be corporate unit trusts or public trading trusts

Corporate unit trusts

Unit trusts that were corporate unit trusts (CUTs) under the former Division 6B of Part III of the *Income Tax Assessment Act 1936* will cease to be CUTs for income years starting on, or after, 1 July 2016 as a result of the repeal of Division 6B.

Trustees of these affected trusts must consider the impact of these changes on the trust's registration requirements and tax obligations.

Some affected trusts may satisfy the requirements of a public trading trust, and if so, will be taxed as a corporate tax entity under Division 6C. These trusts will lodge a company tax return using their current company TFN.

An affected trust will still be treated as a corporate tax entity and lodge a company tax return using its current company TFN for income years on or after 1 July 2016 if it has made a choice under Subdivision 713-C of the *Income Tax Assessment Act 1997* to be the head company of an income tax consolidated group.

See also:

- Transitional rules for trusts that cease to be corporate unit trusts or public trading trusts

Ceasing to be a public trading trust or a corporate unit trust

A trust that ceases to be a public trading trust, or a corporate unit trust, will cease to be treated and taxed as a corporate tax entity.


A trust that ceases to be treated as a corporate tax entity should:

- in the final income year of being treated as a corporate tax entity, lodge its company tax return using its current company TFN and indicate that the return is its final return
- cancel its ABN (if it is linked to its company TFN)
- for the following income year:

- apply for a new trust TFN and ABN (if it does not already have an appropriate trust TFN and ABN) and lodge a trust tax return
- use the trust TFN and ABN for its tax and superannuation obligations.

If the trust becomes eligible to be treated as a corporate tax entity for a later income year, it is to:

- apply for a company TFN to lodge a company tax return for that income year
- use its company TFN for its PAYG instalment obligations; and
- continue to use its trust TFN and ABN for all other tax and superannuation obligations.

The trust can apply for a new TFN and ABN at any time at abr.gov.au  if it does not have an existing trust TFN and ABN or an existing company TFN (as appropriate).

Franking credits

A trust that ceased to be taxed as a corporate tax entity as a result of the 2016 amendments which repealed Division 6B and modified Division 6C will have until 30 June 2019 to use any surplus in its franking account, provided that the trust meets any **imputation integrity rules**.

When completing its trust tax return, the trust should refer to the trust tax return instructions. While required to keep records on its franking account or franking credits, the trust is not required to provide this as part of the return.

The trust, however, must **issue a distribution statement** to each member who receives a distribution, showing the amount of the franking credit attached to the distribution and the extent to which it is franked. The trust is also required to include the distribution information in the Annual investment income report (AIIR).

Unit holders

If you are a unit holder and receive a trust distribution, you should refer to any distribution statement from the trust and complete your income tax return accordingly.

See also:

- Transitional rules for trusts that cease to be corporate unit trusts or public trading trusts

Trust losses

All trusts, whether or not treated as a corporate tax entity, must apply the trust loss rules in Schedule 2F of the ITAA 1936 if they wish to use a tax loss to reduce the trust's net income.

See also:

- Trust loss provisions

Public unit trust: statement of distribution



How to aggregate reporting of income for trustees of public unit trusts.

QC 54719

Public unit trust: statement of distribution

How to aggregate reporting of income for trustees of public unit trusts.

Last updated 27 January 2021

This information is for trustees of public unit trusts who are required to lodge an Annual Investment Income Report (AIIR).

When completing the statement of distribution in their trust tax return, these trustees can aggregate reporting of certain amounts, such as most distributions to resident beneficiaries.

This arrangement is intended to minimise duplicated reporting for trustees that must lodge an AIIR for the same year of income, while still providing sufficient information for the ATO to determine whether an assessment should issue to the trustee.

Trustees that are not required to lodge an AIRD must complete the tax return statement of distribution in full.

How to complete the statement of distribution

The trustee must:

- [fully report amounts for which the trustee is to be assessed](#)
- [aggregate amounts where beneficiaries are non-resident companies](#)
- [aggregate amounts for which the trustee is not to be assessed.](#)

Fully report amounts for which the trustee is to be assessed

Where a trustee is to be assessed on amounts of trust income, the trustee must fully complete the statement of distribution for the amounts to be assessed, as described in the **trust tax return instructions**.

This applies where the trustee is to be assessed:

- on an amount of net income where there is income of the trust estate to which no beneficiary is presently entitled
- under subsection 98(1) of the *Income Tax Assessment Act* (ITAA) 1936 for beneficiaries that are resident or non-resident individuals under a legal disability
- under subsection 98(3) of the ITAA 1936 for beneficiaries that are non-resident individuals not under a legal disability (see the exception below for non-resident companies)
- under subsection 98(4) of the ITAA 1936 for non-resident trustee beneficiaries.

Aggregate amounts where beneficiaries are non-resident companies

Where the trustee is to be assessed under subsection 98(3) of the ITAA 1936 for beneficiaries that are non-resident companies, the beneficiary companies can be aggregated into one entry in the statement of distribution using the appropriate assessment calculation code. Aggregation is permitted because a flat rate of tax applies to companies.

Use the same process (including name and address details) as described below for aggregated reporting.

Aggregate amounts for which the trustee is not to be assessed

Where a trustee will not be assessed on any net income of the trust for a year of income, the trustee must:

- aggregate these beneficiary distributions on the statement of distribution – for example:
 - aggregate resident individual beneficiaries under the assessment calculation code (30)
 - aggregate resident company beneficiaries under the assessment calculation code (34)
 - aggregate resident trust beneficiaries under the assessment calculation code (35).
- provide the following name and address details for the aggregated information:
 - in the **Non Individual Name** field enter: '[trustee's name] – Aggregated for [insert assessment code]'
 - trustee's address.

Aggregated reporting of beneficiary distributions is required to allow reconciliation of the trust's net income.

Completion of the name and address fields is necessary for electronic lodgment purposes.

See also

To check if your trust is required to lodge an AIIIR, see:

- [About investment income reporting for investment bodies.](#)

QC 42295

Special disability trusts

How to complete the special disability trust tax return and individual return for the principal beneficiary.

Last updated 1 March 2022

On this page

[How special disability trusts are taxed](#)

[Completing a trust tax return for a special disability trust](#)

[Completing an individual tax return for a principal beneficiary](#)

This information is for the trustees of special disability trusts and the principal beneficiaries of such trusts (or their tax advisers).

It explains how to complete the trust tax return of the trust and the individual tax return of the principal beneficiary.

How special disability trusts are taxed

Special disability trusts are trusts established in accordance with Part 3.18A of the [Social Security Act 1991](#) [↗](#) to help families and carers provide financially for the care and accommodation of a person with a severe disability – referred to as the principal beneficiary.

The tax rules for special disability trusts are designed so that the net income of the trust is taxed at the principal beneficiary's marginal tax rate, rather than some or all of it being assessed to the trustee at the rates applicable under section 99A.

Unlike other trusts, where taxation of net income depends on a beneficiary being actually presently entitled to trust income, a principal beneficiary is deemed to be presently entitled to all of the income of a special disability trust (even if there is none). The principal beneficiary of the trust is also treated for tax purposes as though they are under a legal disability, even if they are not. This means the entire net income of the trust is assessed to the trustee on behalf of the beneficiary.

If the principal beneficiary is a beneficiary in more than one trust or derives income from other sources, the net income of the special disability trust should also be included in the beneficiary's assessable income. Any tax payable by the trustee of the special disability trust

should be claimed as a credit on the beneficiary's individual tax return (to prevent double taxation).

If a trust estate is not a special disability trust at the end of an income year, these rules do not apply and net income is taxed under the ordinary trust taxation rules.

Example

Mark is the principal beneficiary of the Lang SDT, which is a special disability trust. Mark is an Australian resident, is not under a legal disability and has a part-time job during the income year from which he earns \$15,000.

During the income year, the Lang SDT earns income of \$25,000. The net income of the trust is also \$25,000.

The trustee of the Lang SDT applies \$20,000 for Mark's reasonable care and accommodation costs during the income year and retains the remaining \$5,000 in the trust.

Mark is treated as if he is presently entitled to all of the income of the Lang SDT and under a legal disability. The trustee of the Lang SDT is therefore assessed on the entire \$25,000 in accordance with subsection 98(1). However, as Mark has also derived income from his part-time employment, he is required to include the entire income of the SDT in his assessable income under subsection 100(1).

Mark is assessed on \$40,000 at his marginal rates of tax. He is able to offset against his individual assessment, any tax payable by the trustee of the Lang SDT on the \$25,000 of trust net income.

Completing a trust tax return for a special disability trust

Generally you complete a trust tax return for a special disability trust in the same way as for other trusts. There are a few specific requirements:

- The code for the type of trust is 'C'.

- Complete the distribution details at item **57** as follows:
 - At the reference to 'Beneficiary 1', provide details of the principal beneficiary of the special disability trust. Include the principal beneficiary's tax file number (if they have one) and date of birth.
 - At label **V** 'Assessment calculation code', insert '45' if the principal beneficiary is a resident of Australia, or '145' if the principal beneficiary is a non-resident.
 - Complete the remaining labels under label **V** 'Assessment calculation code' as necessary for **beneficiary 1** (as per the return instructions).
 - Leave the other beneficiary statements of distribution blank.
 - You don't need to provide any details of income to which no beneficiary is presently entitled. This is because the principal beneficiary of the trust is treated as being presently entitled to all of the income of the trust.

- Any refundable tax offset amount that is refundable in the trust tax return should not also be claimed in the beneficiary's individual tax return. This means the following items should be claimed only in the trust tax return
 - all 'share of credits from income' amounts at item **8**
 - all 'TFN amounts withheld from gross interest' at item **11**
 - all 'TFN amounts withheld from dividends' at item **12**.

Completing an individual tax return for a principal beneficiary

If the principal beneficiary is required to lodge an Individual tax return, the guidance below will help in completing it.

If the special disability trust has a total net income amount at item **26** of the trust tax return, the principal beneficiary should include that amount in their individual tax return at item **13** (of the supplementary section).

If the trustee paid tax on that net income, the principal beneficiary should:

- claim the tax paid by the trustee as a credit at **P** item **T9** 'Other refundable tax offsets' in their individual tax return
- print **S** in the code box at the right of **P**.

In addition to any income from the special disability trust, the principal beneficiary should include in their return any other personally derived assessable income or deductible expenditure incurred.

If the special disability trust has net income but is not required to lodge a trust tax return, the principal beneficiary should:

- still include the amount of net income at item **13**
- not include any amount as a credit at item **T9** 'Other refundable tax offsets', as the trustee will not have paid any tax.

QC 23538

Primary production trusts

When beneficiaries of a trust can access primary production income averaging and can deduct farm management deposits.

Last updated 27 January 2021

On this page

[Averaging](#)

[FMD](#)

This information is for primary producers whose business is carried on through a trust structure.

It explains when a trust beneficiary is treated as a primary producer for the purpose of the primary producer income averaging and farm management deposit (FMD) rules.

Averaging

To be eligible for **income averaging**, a taxpayer must (among other things) be an individual who carries on a business of primary production in Australia for two or more years in a row.

A beneficiary of a trust is taken to carry on a primary production business carried on by a trustee of a trust during an income year if they are presently entitled to all or part of the trust income for that year (subject to a specific anti-avoidance rule designed to prevent exploitation of the averaging rules).

FMD

To be eligible for an **FMD deduction**, a taxpayer must (among other things) be an individual who carries on a business of primary production in Australia when the FMD is made.

An individual beneficiary of a trust is taken to carry on a primary production business carried on by a trustee of a trust during an income year if the individual is presently entitled to a share of the income of the trust for that year.

If, for an income year, a trust has no trust income to which a beneficiary can be presently entitled (for example, because the trust has a loss for trust purposes), the beneficiary can still be taken to carry on a primary production business if specific conditions are met. The relevant conditions depend on whether the trust is a discretionary trust or one where the beneficiaries' entitlements to benefit under the trust are certain.

For a discretionary trust, the beneficiary must be chosen by the trustee. To make an effective choice, a trustee of a discretionary trust will need to:

- choose the higher of up to twelve beneficiaries, or
 - the number of individual primary production beneficiaries eligible for income averaging last year
 - the number of individual primary production beneficiaries eligible to hold an FMD last year
- make the choice in writing, signed by itself and the beneficiary, and retain a record of the choice

- ensure that the choice is completed by the time the trust return is lodged (or within such further time as the Commissioner may allow).

The choice cannot be varied and is irrevocable.

For other trusts (that is, those where the manner or extent to which a beneficiary can benefit from the trust is not able to be significantly affected by the exercise or non-exercise of a power by the trustee), a beneficiary is taken to be carrying on a primary production business if they would have been presently entitled to income if the trust had income for the year.

See also

- Taxation Ruling TR 95/29(W) – for the position prior to 1 July 2010
- Trust tax return instructions
- [Tax Laws Amendment \(2011 Measures No. 5\) Act 2011](#) [↗](#) and [Explanatory Memorandum](#) [↗](#)

QC 24584

Modernising trust administration systems

Learn about the trust administration changes coming from 1 July 2024 for trustees, beneficiaries and tax agents.

Published 24 June 2024

On this page

[About the MTAS project](#)

[Who's affected by the changes](#)

About the MTAS project

The Modernisation of Trust Administration Systems (MTAS) project was first announced in the March 2022 Budget as the 'Digitalising trust income reporting and processing' measure.

The project aims to:

- streamline the taxpayer lodgment experience
- improve the quality, accuracy and integrity of annual income tax return information reported by trustees and beneficiaries
- enable our compliance activities to be better informed.

The MTAS project will deliver changes to annual tax return forms for trustees, beneficiaries and their tax agents. Changes will begin on 1 July 2024, affecting lodgments for the 2023–24 income year and onwards. These changes include:

- modifying 4 labels in the **statement of distribution** – which is part of the trust tax return. These are:
 - gross capital gain
 - capital losses applied
 - capital gains tax (CGT) discount applied
 - CGT small business concessions applied
- introducing the **Trust income schedule** that all trust beneficiary types who receive trust income will need to lodge with their tax return – this will assist correct reporting and facilitate consistency of reporting across all beneficiary types
- adding new data validations to the trust tax return form in the **practitioner lodgment service** – to strengthen the integrity of data reported through the lodgment process.

We'll implement further changes as the MTAS project progresses, and keep you informed of what those changes mean for you.

Who's affected by the changes

Trustees

From 1 July 2024, you'll notice a change to the labels in the statement of distribution section of your trust tax return. We're adding 4 CGT

labels (listed previously) into the trust tax return statement of distribution.

These changes will enhance your ability to appropriately notify beneficiaries of their entitlement to income and support the calculation of their CGT amount in their tax return.

To support beneficiaries in correctly completing the trust income schedule, we recommend you provide them with a copy of the trust statement of distribution – so far as it relates to their entitlement to trust income.

If you are a trustee and a beneficiary of another trust, you'll be required to complete a trust income schedule. You should refer to your obligations as a beneficiary outlined below in [Beneficiaries](#).

Beneficiaries

Your 2023–24 income year tax return will look different. Look out for the trust income schedule, which is a new form lodged with your income tax return. The trust income schedule replicates the fields from the statement of distribution. All you need to do is copy the information across.

Remember, you'll be able to get the information required in the trust income schedule from the trust. We recommend you ask the trustee for a copy of the trust statement of distribution – so far as it relates to your entitlement to trust income.

If you receive a distribution of trust income from a managed fund, this should also be included in the new trust income schedule. The **Trust income schedule** instructions will show you how the information on the tax statement provided by the managed fund is reported on the trust income schedule.

If you lodge via myTax, the trust income schedule will be integrated within the software (see myTax instructions, **Managed fund or trust distributions**). Also look out for messages that prompt you about potential trust income reporting.

If you lodge via a tax agent, the new trust income schedule will be integrated into their existing lodgment software.

Tax agents

From 1 July 2024, we're adding:

- 4 CGT labels into the trust tax return statement of distribution (listed previously).
- data validations in the practitioner lodgment service to ensure accurate reporting.

These changes mean you'll no longer be able to submit without completing the necessary information.

The trust income schedule will now support the reporting of beneficiary trust income. The new schedule:

- won't replace any existing trust income labels in beneficiary income tax returns
- is intended to support existing reporting obligations
 - for individual beneficiaries, and will be incorporated into the existing income details schedule
 - for non-individual beneficiaries – via a new schedule lodged with each beneficiary income tax return.

Beneficiaries will be able to get the information required in the trust income schedule from the trust. As the trust income schedule has been designed to align to the information on the trust statement of distribution, you should encourage your trustee clients to provide beneficiaries the information required to complete the trust income schedule as early as possible, to assist them to complete their tax return.

QC 101554

Our commitment to you

We are committed to providing you with accurate, consistent and clear information to help you understand your rights and entitlements and meet your obligations.

If you follow our information and it turns out to be incorrect, or it is misleading and you make a mistake as a result, we will take that into

account when determining what action, if any, we should take.

Some of the information on this website applies to a specific financial year. This is clearly marked. Make sure you have the information for the right year before making decisions based on that information.

If you feel that our information does not fully cover your circumstances, or you are unsure how it applies to you, contact us or seek professional advice.

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