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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

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

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 of 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

QC 49690

Trusts registration and reporting obligations

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

Last updated 30 January 2020

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

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

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 trusts that have elected to become family trusts, by making a family trust election.

Last updated 18 November 2025

Family trust for tax purposes

A family trust for tax purposes is one whose trustee has made a voluntary election to be treated as a family trust for tax purposes. This is known as a family trust election (FTE). A trust is not a family trust for tax purposes simply because the words 'family trust' are in the trust's name. The trustee must take the active step of making an FTE for the trust to be treated as a family trust for tax purposes.

There are 5 main reasons why a trustee may choose to make an FTE:

1. **Trust loss provisions** – a non-fixed trust has losses or deductions but may not be able to satisfy the trust loss tests to utilise them. By becoming a family trust, the trust is subject to concessional tax treatment. Only one of the trust loss tests (the income injection test) applies, and only in a modified way.
2. **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 it is a family trust. Broadly, the tracing concession applies so that where the trustee of a family trust holds the relevant interests in a company, 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.
3. The holding period rules regulating access to franking credits – a valid FTE in place may enable a beneficiary's interest in shares held by trust to be considered to be held 'at risk'. Both the beneficiary

and trusts are required to hold the shares or interest in the shares 'at risk' for a continuous period of at least 45 days (or 90 days for preference shares) during the qualification period to access the franking credits.

4. **Trustee beneficiary reporting (TBR) rules** – trusts that have made an FTE or an interposed entity election (IEE) (among others) are excluded from the TBR rules.
5. **Small business restructure roll-over** – 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. Special rules apply in this context to discretionary trusts that have made FTEs.

The FTE entitles the trust to access certain tax concessions. However, family trust distribution tax (FTDT) is imposed at the top marginal rate of tax to distributions made outside the family group. FTDT can have severe consequences, so it is critical that trustees understand the implications an FTE can have on the family trust, the broader private group and future generations before making an FTE.

Family trust elections

A trustee may make a family trust election (FTE) for a specified income year by making the election in writing and in the approved form. The trust must pass the family control test (FCT) at the end of the specified income year. The FTE must also specify an individual as the individual whose family group is taken into account for the election.

When the FTE is in force, the trust is a family trust for tax purposes. It can access the tax concessions available to family trusts. Generally, an FTE is in force from 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 commences from the time the trust passes the FCT continuously for the rest of the income year.

The income year specified in the FTE must have ended before the FTE is made. An FTE can only be made if the trust passes the FCT at the end of the specified income year. The FTE can specify an earlier income year to commence the election if from the beginning of the specified income year until 30 June of the income year immediately prior to the income year the election is made, both:

- the trust passes the FCT

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

For example, the trustee of Trust B is making an FTE in the 2026 income year specifying the 2023 income year. The trustee can specify 2023 provided that from the beginning of that income year (that is, from 1 July 2022) until 30 June in the income year before the election is made (that is, 30 June 2025), Trust B satisfies the FCT and has not made any distributions outside the specified individual's family group.

These rules apply to FTEs specifying the 2005 and later income years. FTEs for the 2004 or earlier income years could only generally be made in the relevant return of income or under the transitional rules in the *Taxation Laws Amendment (Trust Loss and Other Deductions) Act 1998*.

A trustee can only make one FTE for the trust.

Once the FTE has been made, it can only be varied or revoked in limited circumstances.

For more information about making an FTE, see **Family trust election, revocation or variation 2025** (NAT 2787).

The specified individual

The FTE must specify a person as the individual whose family group is taken into account in relation to the election. They are referred to as the specified individual, primary individual or test individual throughout Schedule 2F. The FTE does not confer any additional rights or responsibilities on them.

Only one individual can be specified in the FTE.

The individual must be alive between the election commencement time and making of the election. An FTE can't be made for a person that is deceased or has not been born.

If the specified individual dies, they remain the specified individual in the FTE. The members of the family group are still determined by reference to that individual.

Trustees should carefully consider the selection of the specified individual. The decision has implications for the broader private group and future generations.

Revoking a family trust election

An FTE can be revoked where the:

- family trust is a fixed trust, or
- FTE wasn't required for recouping tax losses, deducting bad debts or accessing franking credits (subject to satisfying certain conditions).

An FTE is not taken to be revoked if the specified individual dies. The trustee can't revoke the FTE on the death of the specified individual, unless they meet one of the other criteria for revocation.

Generally, revocations can be made until the end of the fourth income year after the income year specified in the original FTE. Revocations are made in the FTE revocation schedule to the trust's tax return for the income year from which the revocation is to be effective. The revocation can't be backdated to an earlier year.

A tax return that has already been lodged can't be amended to include an FTE revocation schedule. Additionally, we can't defer time for lodging an FTE revocation schedule not lodged with the tax return.

If the trust isn't required to lodge a tax return for the income year, you must give the revocation form to us:

- 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 revoked an FTE.

Varying a family trust election

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 original specified individual's family at the time the election commenced
- 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 interposed entity election to interpose with the family trust election
- to parties outside the new specified individual’s family group
- during the period 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.

The trustee does not have the ability to vary the:

- FTE on the death of the specified individual (unless they meet another criterion for variation)
- specified income year.

Generally, variations can be made until the end of the fourth income year after the income year specified in the original election. Variations must generally be made in the FTE variation schedule to the trust’s tax return for the income year the variation is to be effective. An FTE variation can't be backdated to an earlier year.

A tax return that has already been lodged can't be amended to include an FTE variation schedule. Additionally, we can't defer lodgment of an FTE variation schedule not lodged with the tax return.

If the entity isn't required to lodge a tax return for the income year, the variation form must be given to us:

- within 2 months of the end of the income year, or
- such later day as the Commissioner allows.

Interposed entity elections

An interposed entity election (IEE) is a voluntary election which allows a trust, partnership, or company to join the family group of an individual specified in a family trust election made by a trust. The 2 main reasons to make an IEE are to:

- make an entity a member of the family group of the individual specified in an FTE, which means the trustee of the family trust can confer present entitlement to, or distribute, income or capital on or to the entity that made the IEE without the trustee becoming liable for family trust distribution tax.

- exclude a trust from having to comply with the **Trustee beneficiary reporting rules**.

The IEE may provide certain benefits to interposed entities or a broader private group. However, the trade-off is that FTDT is imposed at the top marginal rate of tax when any distributions (not just those flowing from the family trust) are made by the entity outside the family group. FTDT can have severe consequences, so it's critical that the entity understands the implications an IEE can have on the interposed entity and broader private group before making an IEE.

Making an interposed entity election

In making an IEE, the interposed entity (company, partnership or trust) elects to be included at all times, after a specified day in a specified income year, in the family group of the individual specified in the trust's FTE.

The interposed entity can specify an earlier income year from when the election is to commence. This is if, from the beginning of the specified income year until 30 June of the income year immediately preceding the election, both:

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

Generally, the IEE is in force at all times after the election commencement time. This 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, it 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 IEE to be included in their family group.

A company, partnership, or trust may make more than one IEE. This is provided that each family trust for 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, this will effectively narrow the family group of the family trust to those individuals and entities which are common to both specified individuals' family groups.

Once an IEE has been made, it can only be revoked in very limited circumstances. An IEE can't be varied.

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

For more information, see **Interposed entity election or revocation 2025** (NAT 2788).

Revoking an interposed entity election

The ability of an interposed entity to revoke an IEE is very limited.

An IEE can be revoked where an interposed 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
- a family trust has the same specified individual as another family trust to which it makes an IEE.

An IEE is taken to be automatically revoked if the FTE to which it relates is revoked.

An IEE is not taken to be revoked if the specified individual dies. The interposed entity does not have the ability to revoke the IEE on the death of the specified individual unless another criterion for revocation is satisfied.

Generally, revocations can be made until the end of the fourth income year after the income year specified in the original election. Revocations must generally be made in the IEE revocation schedule to the entity’s tax return for the income year from which the revocation is to be effective. The revocation can't be backdated to an earlier year.

A tax return that has already been lodged can't be amended to include an IEE revocation schedule. We can't defer lodgment of an IEE revocation schedule not lodged with the tax return.

If the entity isn't required to lodge a return for the income year, the IEE revocation form must be given to us:

- within 2 months of the end of that income year, or
- such later day as the Commissioner of Taxation allows.

Make, vary, or revoke an FTE or an IEE

An election to be treated as a family trust (FTE) or interposed entity (IEE) for tax purposes must be made in writing and in the approved form.

The variation or revocation of an existing FTE or IEE should generally be made in a schedule to the entity's return of income for the income year it is to be effective. It can't be backdated to an earlier year.

The approved form is generally one of the forms approved each year by the Commissioner for making, varying or revoking an FTE or IEE. It should include all the information specified in the FTE or IEE form; however, the form will not necessarily be invalid if some labels are incorrect or incomplete.

For more information, see:

- **Family trust election, revocation or variation 2025** (NAT 2787).
- **Interposed entity election or revocation 2025** (NAT 2788).

Record keeping for trustees

The trustee of a family trust is required to include certain information about the FTE on the trust tax return each year the FTE remains in force. This is the same for companies, partnerships and trusts with IEEs.

The trustee must keep written records of the original FTE until generally 5 years after the trust is no longer required to lodge income tax returns with us. This is the same for companies, partnerships and trusts with IEEs. It is always best practice to keep written records of elections while family trusts and interposed entities are making and receiving distributions.

For more information, see **PS LA 2005/2** *Penalty for failure to keep or retain records*.

Family trust distribution tax

Family trust distribution tax (FTDT) is a special tax that is payable where:

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

Consequences of family trust distribution tax

FTDT is payable at the top marginal rate of tax applying to individuals, plus Medicare levy (currently 47%). The trustee, partners or company are generally liable for FTDT. Joint and several liability is also attached to directors of companies.

FTDT is payable on the amount or value of any distributions or conferrals made by the family trust or interposed entity outside the family group at any time after the election becomes effective (which can include a time before the election is made). It applies to the actual distribution made, which may be different to amounts included in the trust or entity's tax return.

FTDT generally becomes due and payable 21 days after the date on which the distribution occurs. In a case where the conferral or distribution is made before the day the election was made, then FTDT is due and payable at the end of 21 days after the day the election was made. These dates apply regardless of when the distribution is identified as being subject to FTDT.

We are generally required by law to pursue recovery of FTDT. FTDT is a debt owed by a person to the Commonwealth. We have no discretion to disregard or ignore FTDT that we identify as being payable by a person.

Where we identify that FTDT is payable by a person, we may give the person an FTDT notice of liability. We specify the amount of FTDT payable, and the day the tax became or will become due and payable.

We may give the FTDT notice of liability at any time. There is no time limit on issuing an FTDT notice of liability. The liability of the person to FTDT is not dependent on, or in any way affected by, giving the notice. It is not necessary for us to issue a FTDT notice of liability for FTDT to be due and payable.

A person that is dissatisfied with a FTDT notice of liability may **object to a decision** to issue the notice. You can't object to the imposition of FTDT directly.

General interest charge

The person is also liable to pay the **general interest charge** (GIC) on any unpaid amount of FTDT that remains unpaid 60 days after the day it is due to be paid. This applies for each day in the period that began 60 days after the FTDT was due. It finishes on the last day that the FTDT and applicable GIC remains unpaid.

GIC applies from this date regardless of when the distribution is identified as being subject to FTDT or when the FTDT notice of liability is given. This means that the GIC can be significant if FTDT is identified many years after the distribution.

GIC on FTDT is GIC imposed on an unpaid tax liability (that is, late payment GIC). Taxpayers can request remission of GIC on a case-by-case basis under section 8AAG of the *Taxation Administration Act 1953* and in accordance with **PS LA 2011/12** *Remission of General Interest Charge*.

Where an electing entity has taken reasonable steps to mitigate the effects of those circumstances, up to 31 December 2026, we may consider it fair and reasonable to remit GIC:

- 80% remission down to 20% of GIC liability remaining – where a taxpayer has:
  - proactively self-reviewed their FTDT liability (before a review has commenced)

  - lodged the **Family trust distribution tax payment advice form** (NAT 6175)
  - paid the FTDT
- partial remission (less than the above scenario) – where a taxpayer has:
  - made a voluntary disclosure of an FTDT liability during the early stages of a review (prior to audit)
  - lodged the **Family trust distribution tax payment advice form** (NAT 6175)
  - paid the FTDT.

The electing entity would need to provide us with a GIC remission request with sufficient information to allow us to decide that it was fair and reasonable (for example, on a case-by-case basis).

We would generally consider it's not fair and reasonable where:

- a risk review identifying FTDT risks has progressed to an audit
- we've issued a FTDT notice to the electing entity
- there's evidence of mischief, tax avoidance, fraud or evasion.

Amendments apply to the deductibility for ATO interest charges incurred in income years starting on or after 1 July 2025. This means that GIC incurred on FTDT on or after 1 July 2025 is not deductible. Any GIC incurred on FTDT before 1 July 2025 is not impacted by changes in law. It will continue to be deductible for the 2024–25 and earlier income years. The issue date of a FTDT notice of liability does not affect deductibility of GIC.

For more information, see:

- **Remission of interest charges.**
- **Denying deductions for ATO interest charges.**
- **Spotlight on... Assistant Commissioner Amy-James Velagic.**

If you identify that FTDT is payable

If you identify that FTDT is payable on a distribution, you should pay the FTDT as soon as possible to prevent further GIC accruing.

Accompany each payment of FTDT with the **Family trust distribution tax payment advice** (NAT 6175).

Upon payment of the FTDT, the amount or value of the distribution may become non-assessable non-exempt income of the trust, partnership or company, or any other person. The trustee, entity or other person may request an amendment to their assessment at any time to reflect these amounts. For more information, see **Amend your tax return**.

Key issues to be aware of

We're seeing an increase in FTDT issues due to:

- inadequate record keeping
- succession planning
- intergenerational expansion of businesses, and
- evolving private groups.

Once you have made an FTE or an IEE, it’s important to be mindful of who the specified individual is (for each election). There is a strict legal definition of family and family group, based on who the members of the 'specified individual’s' family group are.

Private groups may have multiple family trusts with different specified individuals. This means there will be differences in who is in the respective 'family groups'. The business may have expanded with new entities or changes in family members (for example, after a divorce).

While the election is in effect, FTDT will apply if any distributions are made outside the family group.

Before you make conferrals or distributions, you should:

- maintain strong governance and record-keeping practices
- understand what elections an entity or group has in place
- identify the members of the specified individual's family group.

Family trusts, interposed entities and their advisors should review this information on at least an annual basis. Keep those elections front of mind when administering your tax affairs. Don't treat elections as 'set and forget'.

We have no discretion to ignore the application of FTDT. We also cannot limit the period to which FTDT applies. We have no power to extend the time to revoke or vary elections.

Refer to Examples showing how FTDT applies.

Terminology for family trusts

Family control test

The family control test (FCT) broadly tests who can control the income or capital of an entity.

Trusts

When making a family trust election (FTE) or an interposed entity election (IEE), a trust passes the 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. For example, an adviser might be one of the directors of the trustee company. However, a person can only be a controller as a professional legal or financial adviser because of their status as an adviser, rather than in a personal capacity.

Companies and partnerships

A company or partnership passes the FCT when 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.

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.

The FCT for companies and partnerships is more restrictive than the FCT for trusts. For example, the FCT for companies and partnerships can't be satisfied where a company or partnership is owned by a family trust that has made an FTE in favour of a different individual. That is even if the different individual is a member of the original specified individual's family. It is therefore important to carefully consider whether the company or partnership satisfies the FCT before making an IEE.

Family group

When 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:

- members of the specified individual's family
- certain former members of the specified individual's family who are no longer members due to a breakdown in a 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 with the effect of becoming a member of the specified individual's family group
- trusts, companies or partnerships (other than non-fixed trusts) where the specified individual, members of the specified individual's family and family trusts that have nominated the specified individual, 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.

There is only very limited scope for a company or partnership to be a member of the specified individual's family group, without an IEE to that effect. A company or partnership that is partly or fully owned by persons or entities that are not the specified individual, members of the specified individual's family and family trusts will not generally be part of the specified individual's family group. Shareholders in a company with share classes carrying discretionary rights to income or capital may not have fixed entitlements to all of the income and capital of the company. There are also strict rules for companies and partnerships to satisfy the family control test to make an IEE, which may mean it is not possible for a company or partnership to elect into the specified individual's family group.

If an individual passes away, their deceased estate does not generally become a member of the family group in their place.

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 or stepchild) and extends to include a grandchild, a great-grandchild and so on.

The 'family' of an individual doesn't include aunts, uncles, or cousins.

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

If the specified individual or a member of their family has a spouse when they die, the spouse will remain a member of the specified individual's family until they become the spouse of a person outside of the family group. At that time, they become a member of the specified individual’s family group (instead of the specified individual's family).

If the individual specified in an FTE separates from their spouse, their spouse remains a member of the family. However, if the marriage or relationship ends, the former spouse won't be a member of the 'family'. However, the former spouse will remain a member of the 'family group'.

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.

Distributions

The concept of a distribution is broader in Schedule 2F than in other parts of the tax law.

A distribution includes trust distributions, partnership distributions and company dividends. It can also include a broader range of transactions with beneficiaries, shareholders and partners, including capital distributions, payments, credits, and transfers of property.

A distribution can also include payments (including loans) and credits, transfers or use of property and forgiveness or waiver of debt where the transaction exceeds the consideration given in return. These transactions can be distributions even if the recipient is not a beneficiary, shareholder, or partner of the family trust or interposed entity.

If the transaction is not in the form of money or money equivalent, and instead takes the form of property or some other benefit, it will be necessary to obtain a monetary equivalent of the property or other benefit provided. The valuation should be made by reference to all relevant matters affecting the value of the property or benefit, including, for example, its market price (if any).

If the consideration is given after the time the distribution is made (for example, a loan) it may be necessary to calculate the value of the distribution by reference to the present value of the consideration to be given. The present value of the consideration must be determined at the time the distribution is made. It must take into account any amounts owed or things to be given under contract by the beneficiary to the trust (or third party) in return for the distribution. If consideration that was to be given at the time of a distribution is not subsequently given, this will be relevant to the value of the distribution.

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.

For further guidance on the types of transactions that may be treated as distributions, see Taxation Determination **TD 2017/20** *Income tax: is a person who is not a beneficiary of the trust capable of having a distribution made to them for the purposes of section 272-60 of Schedule 2F to the Income Tax Assessment Act 1936?*

Examples showing how FTDT applies

The following examples highlight some common scenarios for private groups where FTDT can arise or that can increase the risk of it applying. These risks can compound over time as a group's activities and structure evolve, and as wealth and control are transferred to the next generation.

In this scenario, we refer to Alice and her spouse Bill. Alice and Bill have 3 adult children, Dara, Eddie and Finn.

Alice began a pet store business in a discretionary trust, Trust A, in 2007. The trustee of Trust A made an FTE specifying Alice commencing in the 2007 income year.

Example 1: fixed trust distributions

In 2010, Alice and a business partner, Zachary, established a unit trust, Trust Z, to acquire the freehold to her pet store business. Alice and Zachary are unrelated. Trust A held 90% of the units, and Zachary held the remaining 10%. Trust Z was controlled by Alice. The trustee of Trust Z made an FTE to join Alice's family group from the 2010 income year.

Trust Z became profitable in 2015 and made distributions in each of the 2015 to 2025 income years to Trust A and Zachary.

FTDT applies to Trust Z's distributions to Zachary in each year as Zachary is not a member of Alice's family group.

The same outcome would arise if Trust Z had made an IEE to join Alice's family group instead of an FTE.

The FTDT liability can't be reversed.

Example 2: company dividends

In 2011, Alice expanded her business interests by establishing Company A to manufacture pet food. Trust A was the sole shareholder of Company A. Company A is a member of Alice's family group as its shares are wholly owned by a trust with an FTE specifying Alice. Despite this, Company A made an IEE to Trust A to be included in Alice's family group from the 2011 income year.

In 2012, Trust A sold 10% of its shares in Company A to the group CEO, Xavier. Alice and Xavier are unrelated. Company A paid dividends in the 2015 and 2020 income years to Trust A and Xavier. FTDT arises on Company A's dividends to Xavier as Xavier is not a member of Alice's family group.

Company A is not eligible to revoke its IEE because its shares are not wholly owned by Alice, members of Alice's family or trusts with FTEs specifying Alice. The liability was discovered after the 4-year time limit for Company A to revoke its IEE had expired. Revocations also can't be backdated to an earlier year.

The FTDT liability can't be reversed. The fact that Company A was already within Alice's family group before making its IEE doesn't affect the outcome.

Example 3: corporate beneficiaries

Alice and her spouse Bill established a discretionary trust, Trust B, to hold investments. The trustee of Trust B made an FTE specifying Bill commencing in the 2007 income year to enable

Trust B's beneficiaries to access franking credit concessions. Trust B is therefore a member of Bill's family group.

Alice and Bill also established Company B as a bucket company. Company B's shares are wholly owned by Trust B, so Company B is a member of Bill's family group.

Trust A made distributions to Company B in the 2013, 2014 and 2015 income years. Company B is not a member of Alice's family group as its shares are not wholly owned by Alice, members of her family or trusts with FTEs specifying Alice.

Company B can't make a retrospective IEE to join Alice's family group as it doesn't pass the FCT. This is because its shares are not owned more than 50% by Alice, members of Alice's family or trusts with an FTE specifying Alice. The outcome would not change if Trust B had made an IEE to Trust A to join Alice's family group.

FTDT arises on Trust A's distribution to Company B. The FTDT liability can't be reversed.

Example 4: succession planning

In 2016, Alice began considering how she would transfer wealth to her children Dara and Eddie, who were taking an active role in the business.

Dara controlled a discretionary trust, Trust D. Trust D had an FTE specifying Dara and an IEE to a trust with an FTE specifying Dara's spouse, George.

Eddie established a discretionary trust, Trust E. The trustee of Trust E made an FTE specifying Eddie.

Trust A made distributions to Trust D and Trust E in each year from the 2016 income year.

Trust D is not a member of Alice's family group because it is a discretionary trust that has not made an FTE specifying Alice or an IEE to join Alice's family group. Trust D can't make further elections to join Alice's family group because it already has an

FTE and can't make further IEEs to join the family group of anyone other than George. FTDT arises on the distributions from Trust A to Trust D. The FTDT liability can't be reversed.

Trust E is not a member of Alice’s family group because it is a discretionary trust that has not made an FTE specifying Alice or an IEE to join Alice’s family group. FTDT arises on the distributions from Trust A to Trust E.

Trust E can't make a retrospective FTE specifying Alice because it has already made an FTE specifying Eddie. Trust E also can't make a retrospective IEE to Trust A to join Alice's family group from the 2016 income year. This is because Trust A distributed outside of Alice's family group in the relevant period (being the distributions Trust A made to Trust D). The FTDT liability can't be reversed.

No FTDT would have arisen if Trust D and Trust E had specified Alice in their FTEs.

Example 5: death of specified individual

Bill died in 2022, and control of Trust B passed to Finn. Finn established his own discretionary trust, Trust F. Finn also established a bucket company, Company F. Company F’s shares were wholly owned by Trust F.

Finn uses a different tax agent to the rest of his family. Trust F has not made any FTEs or IEEs.

Trust B distributed franked distributions to Trust F in each year from the 2023 income year. Trust F subsequently distributed those amounts to Company F.

FTDT applies on the distributions from Trust B to Trust F as Trust F is not a member of Bill’s family group. This is because Trust F is a discretionary trust that has not made an FTE specifying Bill or an IEE to join Bill’s family group.

Trust F can't reverse the FTDT liability by making a retrospective FTE specifying Bill. This is because Bill is now deceased.

Trust F may be able to reverse the FTDT liability by making a retrospective IEE to interpose with Trust B from the 2023 income year if the FCT is passed and Trust B has only distributed to members of Bill's family group during the relevant period.

However, FTDT would then arise on Trust F's distributions to Company F from the 2023 income year. This is because Company F would remain outside of Bill's family group as Company F's shares are not wholly owned by Bill, members of Bill's family or trusts with FTEs specifying Bill. Company F also can't make an IEE to join Bill's family group as it doesn't pass the FCT. This FTDT liability could not be reversed.

Note: there may also be franking credit consequences for Trust F's beneficiaries if Trust F doesn't make a retrospective FTE.

Example 6: interest-free loan

In 2024, Alice's uncle Will approaches Company A for a loan. Company A makes a loan to Will. The loan is interest-free, and repayments are not required, unless called upon by Company A.

The loan is a distribution within the extended meaning of distribution in the FTDT provisions. This is because the amount of the loan exceeds the present value of any consideration to be given in return. Will is not a member of Alice's family.

FTDT arises on the loan from Company A to Will.

The FTDT liability can't be reversed.

In each of these examples, the respective trustees, companies and directors are jointly and severally liable for each FTDT liability. FTDT generally becomes 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. In a case where the conferral or distribution is made before the day on which the election was made, then the FTDT is due and payable at the end of 21 days after the day on which the election was made.

GIC begins to accrue 60 days after the FTDT becomes due and payable. If Alice's private group did not realise FTDT applied to these transactions until many years later, then the GIC may be significant and in some instances the GIC liability could exceed the FTDT liability.

QC 48752

Specific rules for some trusts

Understand the rules for certain types of trusts.

Last updated 23 July 2025

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.

QC 23083

Unit trusts treated as corporate entities

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

Last updated 24 May 2021

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 AIIR 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 AIIR, 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

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

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

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.