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# Family trust election revocation or variation and instructions 2024

How to complete the family trust election, revocation or variation and conditions you need to meet.

**Published** 30 May 2024

## How to get a family trust election revocation or variation 2024



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# How to get a family trust election revocation or variation 2024

How to get the family trust election, revocation or variation and when to use it.

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## Get the family trust election, revocation or variation form

Go to [Family trust election, revocation or variation 2024](#)  on our Publications Ordering Service (POS) at [iorder.com.au](https://iorder.com.au).

## Get the instructions

For help preparing the schedule, see Instructions – family trust election revocation or variation 2024.

The *Family trust election, revocation or variation 2024* instructions are not available in print.

You can create and save a PDF copy (52 KB) from this webpage – select the **Print or Download icon** under the page heading, then select **PDF whole topic**.

## Using the Family trust election, revocation or variation 2024

Trustees must use the *Family trust election, revocation or variation 2024* for:

- making a family trust election in accordance with section 272-80 of Schedule 2F to the *Income Tax Assessment Act 1936* (ITAA 1936) specifying the 2004–05 or later year
- revoking a family trust election in 2023–24 in accordance with subsections 272-80(6) to (8) of Schedule 2F to the ITAA 1936
- varying the specified individual under subsections 272-80(5) to (5D) and (8) of Schedule 2F to the ITAA 1936.

If you want to revoke or vary a family trust election, use the *Family trust election, revocation or variation 2024* only for 2023–24.

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## How to make a family trust election

Find out how to make, revoke or vary a family trust election

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### Make a family trust election

To **make a family trust election**, complete the *Family trust election, revocation or variation 2024*. The completed form can be sent to us at the address below.

### Revoke or vary a family trust election

To revoke or vary a family trust election, you need to know if the entity is required to lodge a tax return for the income year.

## Tax return required

To **revoke or vary** a family trust election where the tax return 2024 for the trust is required, complete the *Family trust election, revocation or variation 2024*. Include it as part of the tax return and send it to the address below.

## Tax return not required

To **revoke or vary** a family trust election where the tax return 2024 is not required, complete the *Family trust election, revocation or variation 2024*. You must send it to the address below no later than 2 months after the end of 2023–24.

If you need **more time** to revoke or vary the election, with or without the tax return 2024, write to us before the due date. Request an extension of time, stating the reasons for the delay and the proposed date for lodging the form and tax return.

## Lodge your family trust election

Send your completed form and tax return to:

**Australian Taxation Office**

**GPO Box 9845**

(insert the name and postcode of your nearest capital city)

For example:

**Australian Taxation Office**

**GPO Box 9845**

**SYDNEY NSW 2001**

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## Conditions for making a family trust election

Find out what the conditions are for making a family trust election.

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## Where specifying the 2023–24 year

To make a family trust election for 2023–24, the trust must pass the family control test in section 272-87 of Schedule 2F to the ITAA 1936, at the end of that year; see subsection 272-80(4) of Schedule 2F to the ITAA 1936. However, the election will only be in force from the earliest time (**the election commencement time**) in 2023–24 from which the trust passes the family control test, continuously until the end of that year; see subsection 272-80(10) of Schedule 2F to the ITAA 1936.

A trust can only have one family trust election in force; see subsection 272-80(11) of Schedule 2F to the ITAA 1936. However, trustees can make a family trust election and one or more interposed entity elections in accordance with section 272-85 of Schedule 2F to the ITAA 1936.

## Where specifying 2004–05 or later year

For 2004–05 and later years, trustees can make family trust elections specifying an earlier year provided certain conditions are met. Generally, these conditions require that from the beginning of the specified year until 30 June of the year immediately preceding the one in which the election is made:

- the trust passes the family control test in section 272-87 of Schedule 2F to the ITAA 1936
- any conferrals of present entitlement to, or any actual distributions of, income or capital of the trust during that period have been made on or to the individual specified in the election or members of that individual's family group; see subsection 272-80(4A) of Schedule 2F to the ITAA 1936.

As subsection 272-80(4A) of Schedule 2F to the ITAA 1936 applies to elections specifying a year before the year in which the election is made, trustees using the *Family trust election, revocation or variation*

2024 to make a family trust election can specify the 2004–05 or later year provided the above conditions are met.

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## Conditions for varying a family trust election

Find out what the conditions are for varying a family trust election.

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The specified individual in a family trust election can be varied where:

- the new individual was a member of the family of the original specified individual at the election commencement time
- no conferrals of present entitlement to, and distributions of, income or capital have been made (by the trust or an interposed entity) outside the new specified individual's family group during the period in which the family trust election has been in force, and
- the trust meets the related conditions in subsections 272-80(5A), (5B), (6B) and (8) of Schedule 2F to the ITAA 1936 which includes specific time periods during which the specified individual in a family trust election can be varied.

In addition to this, subsections 272-80(5C) and (5D) of Schedule 2F to the ITAA 1936 contain the conditions under which the specified individual can be varied if, as a result of a family law obligation arising from a marriage breakdown, the control of the trust passes to a new specified individual or their family members.

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# Conditions for revoking a family trust election

Find out what the conditions are for revoking a family trust election.

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The trustees of a trust may revoke a family trust election where either:

- the family trust is a fixed trust at the beginning of the specified year and the trust satisfies all the other conditions set out in subsections 272-80(6) and (7) of Schedule 2F to the ITAA 1936
- under legislative changes that took effect on 1 July 2007
  - at any time while the election was in force, the trust, or another entity, has not recouped a tax loss or claimed a deduction for bad debts, or a beneficiary of the trust has not received a franked distribution indirectly through the trust in relation to which the beneficiary was entitled to franking credits, only as a result of the election being in force, and
  - the trust must also satisfy the related conditions in subsections 272-80(6A), (6B) and (8) of Schedule 2F to the ITAA 1936 which includes specific time periods during which a family trust election can be revoked in this situation.

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## Instructions – family trust election revocation or variation 2024

Instructions for how to complete the Family trust election, revocation or variation 2024.

## Entity details

Write the tax file number (TFN) of the trust in the space provided.

All trustees using the *Family trust election, revocation or variation 2024* must complete items **1**, **2** and **3** if it applies.

## Section A: Family trust election or variation details

If the trustees are making a family trust election specifying the 2004–05 or later year, complete Section **A**.

Trustees must provide all the information required in Section **A** for a family trust election specifying the 2004–05 or later year to be made in accordance with section 272-80 of Schedule 2F to the ITAA 1936.

When making a family trust election, make sure you write either **2005** or **a later income year** (as appropriate) in Section **A**, item **6** in the **Income year specified** box.

If the trustees are varying the specified individual, complete item **6** or **7** (depending on which is applicable) and Section **A**, item **8**.

Trustees must provide all the applicable information required for the specified individual in their family trust election to be varied in accordance with subsections 272-80(5A) to (5D) and (8) of Schedule 2F to the ITAA 1936.

Although it is not an offence not to quote a TFN, any TFN required on this form is information which the Commissioner requires within the meaning of subsection 272-80(3) of Schedule 2F to the ITAA 1936. If the TFN of a person or entity is required on the *Family trust election, revocation or variation 2024* and the relevant person or entity doesn't have a TFN, print **X** in the box provided.

## Section B: Family trust revocation

If the trustees are revoking a family trust election in 2023–24, complete Section **B**.



Trustees must provide all the information required in Section **B** for a family trust election to be revoked in accordance with subsections 272-80(6) to (8) of Schedule 2F to the ITAA 1936.

## Declarations

Where the *Family trust election, revocation or variation 2024* is used to make a family trust election, every trustee of the trust must sign and date the form at the time the family trust election is made. If a trustee is a company, the company's public officer must sign for that corporate trustee.

Where the *Family trust election, revocation or variation 2024* is used to revoke or vary a family trust election, every trustee of the trust must sign and date the form at the time the:

- 2024 tax return for the trust is lodged with this form, or
- *Family trust election, revocation or variation 2024* must be given to the Commissioner.

If a trustee is a company, the company's public officer must sign for that corporate trustee.

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## 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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