Attention all trustees: Top 5 EOFY checklist!

Use our EOFY checklist to help you stay compliant and in control of your trust obligations.

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As the 30 June deadline for trust resolutions approaches, it's crucial for trustees and their advisers to be clear about their obligations. Our end of financial year (EOFY) checklist will help you avoid basic trust errors that can arise if you don't fully understand your obligations or take reasonable care to get things right.

1. **Understand how income is defined for the trust estate.**

Trustees must be familiar with their trust deeds and accurately determine the income of the trust estate for each financial year. Common errors include actions that are inconsistent with the deed, mistaking accounting profit for distributable income, and misinterpreting trustee powers. To avoid these errors, trustees should:

- review the trust deed and distribute income according to each beneficiary's entitlements
- review the trust deed to understand how it defines income.

2. **Identify the trust's beneficiaries.**

Trustees need to correctly identify the beneficiaries of their trust. Errors often occur when trustees fail to read the deed, distribute to non-beneficiaries, or distribute outside the family group when a family trust election (FTE) or interposed entity election (IEE) is in place. To prevent these mistakes, trustees should:

- identify beneficiaries as per the trust deed

- ensure all entitled beneficiaries quote their TFN and are notified of their entitlement.

3. **Understand resolutions and present entitlement.**

Trustees must make valid resolutions to appoint or distribute income to beneficiaries by 30 June of the relevant tax year. If resolutions are not made by this date, the trustee may be liable for the tax on all income of the trust and taxed at the highest marginal tax rate plus the Medicare levy. Errors such as invalid resolutions and back-dated resolutions can be avoided by:

- reading the trust deed
- making clear and timely resolutions.

4. **Identify any family trust elections (FTE) or interposed entity elections (IEE).**

A family trust is a trust where the trustee has made a valid FTE. Family trusts can access tax concessions but, distributions made outside the family group will trigger family trust distributions tax (FTDT). This is a specific 47% tax payable by the trustee on the distribution. The Commissioner has no discretion with FTDT once it is triggered. Therefore, trustees should be vigilant about existing FTEs or IEEs in place and maintain accurate records.

We're seeing an increase in trustees distributing outside the family group triggering FTDT. To limit FTDT risks, trustees should:

- be aware of all FTE or IEEs made and their family group
- keep copies of all elections.

5. **Maintain clear and accurate records.**

Poor record keeping is the most common cause of issues related to trusts. Trustees need to understand that they're personally liable for the debts of the trusts they administer. Keeping complete and accurate records can prevent unforeseen tax liabilities falling upon the trustee.

More resources

You can also use our Trust tax-time toolkit for more useful information, checklists and tips to ensure you correctly meet your trust tax obligations.

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