About these instructions

The *Trust tax returns instructions 2013* will help you complete the [Trust tax return 2013] (NAT 0660).

These instructions cover:

- how to complete schedules that trusts might need to attach to their tax return
- record keeping requirements.

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This guide is not available in print or as a downloadable PDF (Portable Document Format) document.

Introduction

These instructions will help you complete the *Trust tax return 2013*. They are not a guide to income tax law. You may need to refer to other publications.

When we say 'you' or 'your business' in these instructions, we mean either you as the trust that conducts a business, or you as the registered tax agent or trustee responsible for completing the tax return.

These instructions contain abbreviations for names or technical terms. Each term is spelt out in full the first time it is used and there is a list of abbreviations.

What's new?

In 2012, the ATO undertook a review of business income tax returns in an effort to obtain a better balance between the community's cost of compliance and the organisation's information needs. The review explored the company, trust and partnership income tax returns and some associated schedules to identify opportunities to remove or refine the information collected.

The review has resulted in the following changes that affect the *Trust tax return 2013.*

The *Personal services income schedule* and the *Capital allowances schedule* have been decommissioned. A new set of information items relating to these regimes are now included at items **30** and **48** in the return.

The *Capital gains tax (CGT) schedule* has been redesigned and the former item **21** label **H Did the CGT event relate to an FMIS?** has been replaced with new label **M Have you applied an exemption or rollover?**

The following information items from the *Trust tax return 2012* are not on the *Trust tax return 2013*:

- **5** label **A Gross payments subject to foreign resident withholding (primary production)**
- **5 Foreign resident withholding expenses (primary production)**
- **17 Forestry management investment scheme ruling details**
- **29** label **Q Amount of tax spared foreign income tax offset**
- **29** label **I Interest to financial institution exempt from withholding under a DTA**
- **29** label **Y DTA country (code)**

- **29** label **D Section 128FA exempt interest paid**
- **36** label **K Proprietors' funds**
- **52** label **F Small business and general business tax break**
- **57** label **V Deduction for environmental protection expenses.**

Item **48** Capital allowances incorporates former items:
- **46** label **N Intangible depreciating assets first deducted**
- **47** label **U Other depreciating asset first deducted**
- **48** label **O Termination value of intangible depreciating assets**
- **49 l**abel **W Termination value of other depreciating assets**
- **50** label **P Deduction for project pool**
- **51** label **X Section 40–880 deduction**
- **56** label **S Landcare operations and deduction for decline in value of water facility**.

Former item **54** label **Q Interest expenses overseas** and item **55** label **S Royalty expenses overseas** have been moved to item **29 Overseas transactions**.

Private health insurance rebate and Medicare levy surcharge

From 1 July 2012, the private health insurance rebate and Medicare levy surcharge are income tested against three new income tiers. This means a beneficiary's:
- entitlement to private health insurance rebate will be reduced if their income is over a certain amount, or
- rate of Medicare levy surcharge may increase if their income is over a certain amount

For more information, see Changes to private health insurance rebate and Medicare levy surcharge.

Net medical expenses tax offset

The net medical expenses tax offset is now income tested.

Where a trustee has paid medical expenses on behalf of a resident beneficiary out of trust assets, the amount a trustee will be entitled to claim as a tax offset will depend on the beneficiary's family status and share of the trust net income to which the trustee is assessed under section 98.

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At the time of publishing these changes had not become law. For further information, go to www.ato.gov.au and search for Net medical expenses tax offset.

For more information, see T6 Total net medical expenses.

Dealings in registered emissions units under the Carbon Pricing Mechanism

The *Clean Energy (Consequential Amendments) Act 2011* introduced Division 420 of the *Income Tax Assessment Act 1997 (ITAA 1997)*. Broadly, this new division establishes a rolling balance treatment of registered emissions units (REU) for income tax with the following main features:

- The cost of an REU is deductible.
- Any difference in the value of REUs held at the beginning of an income year and at the end of that year is reflected in taxable income, with
    - any increase in value included in assessable income
    - any decrease in value allowed as a deduction.

  In the standard case where banked units are valued at cost, the rolling balance method has the effect of deferring the economic benefit of the deduction for the cost of the REU until the sale or surrender of the unit.
- A taxpayer can elect to value all REUs held at the end of an income year using the 'first-in, first-out' cost method, the actual cost method, or at market value.
- The valuation method chosen continues to apply but can be changed once at any time before the end of the 2014–15 income year after which a change will only be allowed after a method has been used for four years.
- The proceeds of selling an REU are assessable income.
- Special rules apply for 'free carbon units' issued under the Jobs and Competitiveness Program or issued to coal-fired electricity generators.
- Where a taxpayer surrenders an REU for a purpose unrelated to producing assessable income, the deduction for the cost is effectively reversed by including in assessable income an amount equal to the amount deducted for its acquisition.
- Expenditure incurred in establishing an offsets project under the Carbon Farming Initiative is not deductible under Division 420, but may be deductible under the other provisions of the income tax law.

The amount of a unit shortfall charge is not deductible under the income tax law.

Conservation tillage refundable tax offset

The government has introduced a refundable tax offset for purchase of an eligible no-till seeder ('eligible seeder') used in conservation tillage farming practices. Qualifying primary producers may be entitled to a refundable tax offset of 15% of the cost of an eligible seeder. The refundable tax offset is only available for eligible seeders installed ready for use between 1 July 2012 and 30 June 2015.

Where eligible, the trustee will claim the offset in the trust tax return for the year. The offset claim does not flow directly to beneficiaries of the trust.

For more information, see [Conservation tillage refundable tax offset]

Related Party Debt and Limited Recourse Debt

The government announced in the 2012 Budget its intention to amend the law to provide a more consistent tax treatment for bad debts between related parties irrespective of whether they are members of a tax consolidated group. The measure will ensure that, where the debtor and creditor are associates and a corresponding debt is terminated (written-off) or forgiven after 7.30pm on 8 May 2012 the creditor will be denied tax relief for the bad debt written off and the corresponding gain to the debtor will also not be taxed. This will impact on entities that are associates but are not all wholly within the same tax consolidated group.

The limited recourse debt provisions will also be clarified. This will ensure tax deductions are not available for capital expenditure on assets that have been financed by limited recourse debt, to the extent that the taxpayer is not effectively at risk for the expenditure and does not make an economic loss.

At the time of publication these changes had not become law, however the Bill to amend the limited recourse debt provisions was before the parliament.

For further information, go to [ato.gov.au]() and search for Bad debt or Limited Recourse debt.

Small business entities – increase in the instant asset write-off threshold, simplified depreciation and accelerated initial deduction for motor vehicles

The *Tax Laws Amendment (Stronger, Fairer, Simpler and Other Measures) Act 2012* introduced a number of changes for small businesses with an aggregated turnover of less than $2 million applicable for the 2012–13 income year including:

- increasing the small business instant asset write-off threshold from $1,000 to $6,500
- allowing small businesses to claim an accelerated initial deduction for motor vehicles acquired in 2012–13 and subsequent years
- consolidating the long life small business pool and the general small business pool into a single pool to be written off at 15% in the year of allocation and 30% in following years.

For more information, see Small business entity concessions: simplified depreciation rules.

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Personal tax changes (Household assistance program)

The main features of the personal tax reforms applicable from 1 July 2012 include the following:

- The tax-free threshold has increased to $18,200.
- The first and second marginal tax rates for residents have increased.
- The low income tax offset (LITO) maximum value has reduced with an increase to the LITO phase-out threshold and withdrawal rate.
- The pensioner tax offset is no longer available. Former pensioner tax offset (PTO) claimants and senior Australians (SATO) will now claim under the one tax offset titled Seniors and pensioners tax offset (SAPTO).
- If a taxpayer is entitled to both the SAPTO and Beneficiary tax offset (BTO) only one can be claimed: the offset that provides the greatest benefit to the taxpayer.
- The Medicare levy low-income threshold and limits increased so that individuals who do not earn enough income to pay income tax do not have to pay the Medicare levy.
- Marginal tax rates for non-residents have been amended to align with the tax changes for resident taxpayers.

For more information, see [Household Assistance Package – tax reforms]().

Managed investment trusts – a new tax system

In the 2010–11 Budget, the government announced the intention to introduce a new taxation regime for Australian managed investment trusts (MITs) in response to the Board of Taxation's report on its review of the tax arrangements applying to MITs. On 30 July 2012, the government announced the start date of the new MIT laws would be 1 July 2014.

In addition it was announced that the choice that MITs can make to apply the streaming changes enacted in June 2011 will be extended so that MITs can apply them to the 2012–13 and the 2013–14 income years.

The new regime announced by the Government proposes:

- allowing eligible MITs to use an attribution method of taxation (in lieu of the existing present entitlement to income method)
- including a *de minimis* rule to allow MITs to carry forward some under and over distributions into the next income year without adverse taxation consequences
- deeming as 'fixed trusts' those MITs that clearly define in their constituent documents the rights and entitlements of their beneficiaries, and provide relief from tax consequences that may arise where a trust changes its constituent documents to meet the clearly defined rights requirement
- allowing unit holders to make, in certain circumstances, adjustments (including upward) to the cost base of their unit holdings to eliminate double taxation that may otherwise arise
- replacing the corporate unit trust rules with an arm's length rule, to be included in the public trading trust provisions, and
- amending the 20% tracing rule for public unit trusts so that it does not apply to super funds and exempt entities that are entitled to a refund of excess imputation credits.

At the time of preparing these instructions, legislation had not been enacted to give effect to the measure.

For more information, see New taxation system for managed investment trusts

General information

Australian Business Register

We are authorised by the *A New Tax System (Australian Business Number) Act 1999* to collect certain information relating to your entity. We may use business details supplied on your tax return to update the information held in the Australian Business Register (ABR) in relation to you. Those details may include your industry classification, status of business, public officer, email address and main business address. We may use postal address details from your tax return if we cannot contact you through your ABR postal address.

Where authorised by law, selected information on the ABR may be made publicly available and some may be passed to government agencies, including Australian, state and local government.

You can find details of agencies regularly receiving information from the ABR at abr.gov.au. You can phone us on **13 28 66** between 8.00am and 6.00pm Monday to Friday to have a list of the agencies sent to you.

These agencies may use ABR information for purposes authorised by their legislation or for carrying out other functions of their agency. Examples of possible uses include registration, reporting, compliance, validation and updating of databases.

In addition to the publicly available information, these agencies can access the:

- name of the entity's associates, such as partner or public officer
- entity's address for service of notices
- entity's principal place of business
- entity's email address
- Australian and New Zealand Standard Industrial Classification (ANZSIC) code for the business conducted by the entity.

Foreign exchange gains and losses

Under the foreign exchange (forex) measures contained in Division 775 and Subdivisions 960-C and 960-D of the *Income Tax Assessment Act 1997* (ITAA 1997), forex gains and losses are generally brought to account as assessable income or allowable deductions, when realised. The forex measures cover both foreign currency denominated arrangements, and broadly, arrangements to be cash-settled in Australian currency with reference to a currency exchange rate. Forex gains and losses of a private or domestic nature, or in relation to exempt income or non-assessable non-exempt income, are generally not brought to account under the forex measures.

If a forex gain or loss is brought to account under the forex measures and under another provision of the tax law, it is generally assessable or deductible only under the forex measures. However, if a financial arrangement of a trust is subject to the taxation of financial arrangements (TOFA) rules, forex gains and losses from the financial arrangement will generally be brought to account under those TOFA rules instead of the forex measures.

Additionally, forex gains and losses will generally not be assessable or deductible under the forex measures if they arise from certain acquisitions or disposals of capital assets, or acquisitions of depreciating assets, and the time between the acquisition or disposal and payment is no more than 12 months. Instead, any forex gain or loss is usually matched with or integrated into the tax treatment of the underlying asset.

The general translation rule requires all tax-relevant amounts to be expressed in Australian currency regardless of whether there is an actual conversion of that foreign currency into Australian dollars.

The tax consequences of forex gains or losses on existing foreign currency assets, rights and obligations that were acquired or assumed before 1 July 2003 are determined under the law as it was before that date unless:

- you have made a transitional election that brings these arrangements under the forex measures, or
- there is an extension of an existing loan (for example, an extension by a new contract or a variation to an existing contract) that brings the arrangement within these measures.

For more information about these measures and how to calculate your foreign exchange realisation gains and losses, see Foreign exchange (forex).

Interposed entity elections and family trust elections

The *Tax Laws Amendment (2007 Measures No. 4) Act 2007* amended Schedule 2F to the *Income Tax Assessment Act 1936* (ITAA 1936) to:

- allow interposed entity elections to be revoked where the election was made for an entity that was already included in the family group of the individual specified in the family trust election at the election commencement time. An interposed entity election may also be revoked at a later time where the entity becomes wholly owned by members of the family group. If an interposed entity election is revoked you need to complete an Interposed entity election or revocation 2013 (NAT 2788) and attach it to the trust's tax return
- broaden the definition of 'family' to include lineal descendants of a nephew, niece, or child of the test individual or the test individual's spouse
- ensure that the death of a family member does not by itself result in another family member ceasing to be a member of the family
- exempt distributions made to former spouses, former widows/widowers and former stepchildren from family trust distribution tax by including them within the definition of 'family group'
- allow family trust elections to be revoked if the family trust is a fixed trust or if the family trust election was not required for utilisation of tax losses, bad debt deductions or accessing franking credits
- permit family trusts that have made a family trust election in respect of the same test individual to be included in each other's 'family group' and not treated as an 'outsider to the trust' for the purposes of the income injection test
- allow the test individual specified in a family trust election to be changed only once, where the new test individual was a member of the original test individual's family, provided that no conferrals of present entitlement to (or distributions of) income or capital of the family trust (or an interposed entity) have been made outside the new test individual's family group.

Electronic lodgments

Tax agents who lodge trust tax returns through the electronic lodgment service (ELS) must complete the *Partnerships and trusts rental property schedule 2013* if item **9 Rent** is completed.

You do not have to complete that schedule if you are lodging a paper version of the trust tax return.

Information matching

We are making increasing use of information-matching technology to verify the correctness of tax returns.

Ensure all information is fully and correctly declared on your tax returns. Certain claims made may be subject to additional scrutiny by us.

In particular, we will be checking the following on the 2013 tax returns:
- distributions from partnerships and trusts
- total salary and wages paid against the pay as you go (PAYG) withholding system
- interest and dividend income
- franking credits claimed.

Hobby or business

It is important to determine whether the trust is carrying on a business, as distinct from pursuing a hobby, sport or recreational activity that does not produce assessable income.

The factors or 'business indicators' various courts and tribunals have taken into account in determining if a business exists for tax purposes include whether the activity:
- has actually started
- has a significant commercial purpose or character
- is undertaken with a purpose of profit as well as a prospect of profit
- is carried out in a manner that is characteristic of the industry
- has repetition, regularity or continuity
- is planned, organised and carried on in a business-like manner
- is of a sufficient size, scale and permanency to generate a profit
- is not more properly described as a hobby, recreation or sporting activity.

For more information, see **Are you carrying on a business?** in Tax basics for small business (NAT 1908).

If you are a primary producer, see TR 97/11 *Income tax: am I carrying on a business of primary production?*

Private ruling by the Commissioner of Taxation

A private ruling is a written expression of opinion by the Commissioner of Taxation (the Commissioner) about the way in which tax laws and other specified laws administered by the Commissioner would apply to, or be administered in relation to, an entity in relation to a specified scheme.

An application for a private ruling must be made in the approved form and in accordance with Divisions 357 and 359 of Schedule 1 to the *Taxation Administration Act 1953* (TAA).

The required information and documentation that accompany a private ruling request must be sufficient for the Commissioner to make a private ruling and include:
- the entity to whom the ruling is to apply
- the facts describing the relevant scheme or circumstance
- relevant supporting documents such as transaction documents
- issues and questions raised relate to the relevant provision to which the ruling relates, and
- your arguments and references on such questions.

The Commissioner may request additional information to make a ruling. The Commissioner will then consider the request and either issue or, in certain limited circumstances, refuse to issue a private ruling.

Publication

To further improve the administration of the private rulings system, we publish all notices of private rulings for public record. For more information, see Register of Private Binding Rulings.

Private rulings are published in an edited form to safeguard taxpayer privacy.

Private ruling applicants are invited to provide a statement detailing any information they believe should be removed from the published version of their private ruling.

If the information the applicant wants removed is more than simply names and addresses, reasons why publication of this information will breach the applicant's privacy should be provided.

Before publication, applicants can comment on the edited version of their private ruling.

Review rights

Generally, taxpayers can object to adverse private rulings or a failure to make a private ruling in much the same way that they can object to assessments. They can refer to a review of adverse objection decisions on a private ruling by the Administrative Appeals Tribunal (AAT) or a court. An explanation of review rights and how to exercise them is issued with the private ruling.

A taxpayer cannot object to a private ruling if an assessment has occurred covering the same facts and issues. The taxpayer could, of course, object to the assessment.

Where a taxpayer has objected to a private ruling the taxpayer cannot object to a later assessment about the same matter ruled on, unless the facts have changed.

Private rulings dealing with the ITAA 1936 continue to apply to the ITAA 1997, to the extent that the old law to which the ruling applies expresses the same ideas as the new law in the ITAA 1997.

For more information on how to object to private rulings and assessments, including the item limits within which those objections have to be made, go to How to apply for a private ruling.

When rulings are binding

A private ruling is binding on the Commissioner where it applies to an entity and the entity has relied on the ruling by acting (or omitting to act) in accordance with the private ruling. An entity can stop relying on a private ruling at any time (unless prevented by a time limit imposed by a taxation law) by acting (or omitting to act) in a way that is not in accordance with the private ruling, and can subsequently resume relying on the private ruling by acting accordingly. The Commissioner cannot withdraw a private ruling. However, where the scheme to which a private ruling relates has not begun to be carried out and where the private ruling relates to an income year or other accounting period, and that period has not begun, the Commissioner can make a revised private ruling.

Penalties and interest charges

The law imposes penalties on trustees for:
- failing to lodge a tax return on time and in the approved form, which includes all applicable schedules
- having a shortfall amount by understating a tax-related liability or over-claiming a credit that is caused by
  - making a false or misleading statement
  - taking a position that is not reasonably arguable
- making a false or misleading statement in a material particular that does not result in a shortfall amount
- failing to provide a tax return from which the Commissioner can determine a liability
- obtaining a scheme benefit
- failing to keep and produce proper records
- preventing access to premises and documents, and
- failing to retain or produce declarations.

Penalties

Penalties may be applied to any false or misleading statement in a material particular, whether the error results in a liability or not. This penalty will not apply where the trustee and their agent, if applicable, has taken reasonable care in making the statement.

For shortfall amounts over $20,000 or 2% of the net income, the taxpayer also needs to have a 'reasonably arguable' position for the statements made in the tax return.

The law makes it clear that, when considering whether a penalty should be imposed, we will consider a taxpayer's position to be 'reasonably arguable' if it would be concluded in the circumstances that what is argued for is about as likely to be correct as incorrect, or is more likely to be correct than incorrect.

The Commissioner must explain, in writing, the reasons for a penalty and, if remission of a penalty has been considered but not fully granted, the reasons for the decision.

General interest charge

Trustees are liable for the general interest charge (GIC) where they have:
- not paid a tax, penalty or certain other amounts by the due date
- varied their pay as you go (PAYG) instalment amount or rate to less than 85% of the amount or rate that would have covered the trustee's actual liability on business and investment income for the year.

Shortfall interest charge

Where an assessment is amended because the tax payable has increased, the due date for payment of the amended assessment is 21 days after the Commissioner gives the notice increasing the liability. Generally, trustees are liable to pay a shortfall interest charge (SIC), which accrues from the due date of the original assessment to the day before the issue date of the amended notice of assessment on the increase. Trustees will be notified of the amount of SIC and it will be due 21 days after the notice is given. The GIC will apply automatically to any unpaid amount of the amended assessment and the SIC once the due date has passed.

The SIC is calculated at a rate 4% lower than the GIC.

For more information about:
- SIC, see Shortfall interest charge – fact sheet
- penalties generally, see Penalties and interest.

Purchase or sale of a business during the income year

Keep a record of the following:
- the name and address of the other party to the transaction
- the purchase or sale price, including details of the allocation of purchase or sale price to all items purchased or sold, including stock on hand and depreciating assets
- a copy of the contract of purchase or sale.

If there is no trustee who is an Australian resident, the onus is on the public officer to keep this information.

Requirements

Record-keeping requirements and retention

If you are carrying on a business, you must keep records relevant for any tax purpose that record and explain all transactions and other acts you are engaged in. Subsection 262A(2) of the ITAA 1936 prescribes the records to be kept, including:
- any documents relevant for the purpose of ascertaining the person's income or expenditure
- documents containing particulars of any election, estimate, determination or calculation made by the person for tax purposes and, in the case of an estimate, determination or calculation, particulars showing the basis on which and the method by which the estimate, determination or calculation was made.

You must keep these records for your financial arrangements covered by the TOFA rules, even if you are not carrying on a business in relation to those arrangements.

Generally, the trust must keep all relevant records for five years after they were prepared or obtained, or five years after the completion of the transactions or acts to which they relate, whichever is the later. This period may be extended in certain circumstances. Keep records in writing and in English. You can keep them electronically as long as the records are in a form that we can access and understand to ascertain your tax liability. See TR 2005/9 *Income tax: record keeping – electronic records*.

Trust record retention

Keep the following records:
- a copy of the trust deed

- a copy of all trustee resolutions
- detailed statement of assets and liabilities
- the names in which business contracts are made
- records that show you have met your choice of superannuation fund employer obligations – for more information, see Your super obligations or phone **13 28 64**
- a record of the name and contact details of the trustee at year end.

Tax losses record keeping

If your trust incurs tax losses, you may need to keep records longer than five years from the date when the losses were incurred.

Generally, tax losses incurred this year can be carried forward indefinitely, until they are utilised by recoupment. When utilised, the loss amount is used in calculating the trust's net income (and beneficiary's taxable income) in that year. It is in the trust's interest to keep records substantiating the balance of this year's losses until the amendment period for the trust's or beneficiary's assessment for the recoupment year in which the losses are fully applied has lapsed.

For more information on record keeping where losses are incurred, see TD 2007/2 *Income tax: should a taxpayer who has incurred a tax loss or made a net capital loss for an income year retain records relevant to the ascertainment of that loss only for the record retention period prescribed under income tax law?*

Capital gains tax (CGT) record keeping

A trust must keep adequate records of all expenditure which will help to correctly work out the amount of capital gain or capital loss made when a CGT event happens. A trust must keep records relating to the ownership and all the costs of acquiring and disposing of property. It will also help to make sure the trust does not pay more CGT than is necessary.

A trust must keep records of everything that affects the trust's capital gains and capital losses. Penalties can apply if the trust does not keep the records for at least five years after the relevant CGT event. If the trust uses the information from those records in a later tax return, the trust should generally keep records longer. If the trust has applied a net capital loss, the trust should generally keep records of the CGT event that resulted in the loss until the end of any period of review for the income year in which the capital loss is fully applied.

For more information on record keeping for CGT, see the Guide to capital gains tax 2013 (NAT 4151) and TD 2007/2 *Income Tax: should a taxpayer who has incurred a tax loss or made a net capital loss for an income year retain records relevant to the ascertainment of that loss only for the record retention period prescribed under the income tax law?*

Record keeping for overseas transactions

Keep records of any overseas transactions in which the trust is involved, or has an interest, during the income year.

The involvement can be direct or indirect, for example, through individuals, trusts, companies or other entities. The interest can be vested or contingent and includes a case where the trust has direct or indirect control of:

- any income from sources outside Australia not disclosed elsewhere on the tax return, or

- any property, including money, situated outside Australia. Where this is the case keep a record of the
  - location and nature of the property
  - name and address of any partnership, trust, business, company, or other entity in which the trust has an interest
  - nature of the of the interest.

If an overseas interest was created by exercising any power of appointment, or if the trust had an ability to control or achieve control of overseas income or property, keep a record of the:
- location and nature of the property
- name and address of any partnership, trust, business, company, or other entity in which the trust has an interest.

If there is no trustee who is an Australian resident, the onus is on the public officer to keep this information.

Trusts

Appointment of public officer

If a trust carries on a business in Australia or derives income from property in Australia and there is no trustee who is an Australian resident, the trustee generally appoints a public officer. The public officer must be a natural person of at least 18 years of age residing in Australia and who is capable of understanding the nature of their appointment as the public officer. The appointment of a public officer is made by giving written notice, specifying the name and address of the public officer, to the Commissioner.

The trust does not need to appoint a public officer if the Australian income of the trust consists solely of dividends, interest and/or royalties subject to withholding tax, or the Commissioner has granted an exemption in writing.

If the trustee does not appoint a public officer they may be prosecuted. A fine of up to $170 (one penalty unit) may be imposed for each day that the trustee fails or neglects to meet the requirements.

The public officer is answerable for doing everything required to be done by the trustee under the ITAA 1936, the ITAA 1997 or the Regulations. A public officer who defaults on any of these duties is liable to the same penalties as the trustee.

Lodging a trust tax return

A notice advising which entities are required to lodge tax returns is published annually in the Federal Register of Legislative Instruments. To find it, visit ComLaw, then select 'Legislative instruments' – 'Current' – 'Lo'.

For most trusts, the trust income tax return is due to be lodged on or before 31 October 2013. The Commissioner may allow later lodgment dates in certain circumstances: see Key lodgment dates for businesses.

If no trustee is resident in Australia, the trust tax return is lodged by the public officer of the trust or, if a public officer does not need to be appointed, by the trust's agent in Australia.

If a trust has derived income, irrespective of the amount of income derived, a trust will have to lodge a return unless exempted by the Commissioner.

However, a trust tax return is not required if the trust was a subsidiary member of a consolidated group for the full income year. Where this is the case, the head company of the group will have the responsibility for reporting any trust income in its tax return and for preparing any necessary schedules.

If the trust is a corporate unit trust or a public trading trust, they are taxed as companies and, as a result, are required to lodge a Company tax return 2013.

For children's saving accounts, see TR 2486 *Income tax: children's savings accounts.*

For charitable trusts, see Income tax guide for non-profit organisations (NAT 7967).

Keep a copy of the trust tax return and related documents, as there may be a charge for obtaining a copy from us.

Our address to lodge tax returns is:

> **Australian Taxation Office**
> **GPO Box 9845**
> **IN YOUR CAPITAL CITY**

The following are the **only** schedules that are sent with the trust tax return:
- Capital gains tax (CGT) schedule 2013 (NAT 3423)
- Family trust election, revocation or variation 2013 (NAT 2787)
- International dealings schedule 2013 (NAT 73345)
- Interposed entity election or revocation 2013 (NAT 2788)
- Losses schedule 2013 (NAT 3425)
- Non-individual PAYG payment summary schedule 2013 (NAT 3422)

At various questions you may be instructed to attach additional information to the tax return. If you are instructed to provide a statement on a separate sheet of paper showing particular information (for example, the type and amounts of a claim for a tax offset) include a heading indicating which question or item the information relates to, sign the statement, attach it to the tax return and print **X** in the **Yes** box at **Have you attached any 'other attachments'?** at the top of page 1 of the tax return.

Do **not** send other schedules or documents with your tax return unless instructed to attach them as 'other attachments'. Keep any other schedules or documents with the trust's tax records. Tax returns lodged without all the required schedules may not be considered to have been lodged in the approved form. Unless the trust tax return and all required schedules are lodged by the due date, a failure to lodge on time penalty may be applied.

International dealings schedule

Where relevant information is reported in the trust tax return at item **22 Attributed foreign income**, item **29 Overseas transactions/thin capitalisation** you must complete an International dealings schedule 2013 (NAT 73345).

For more information, see International dealings schedule instructions 2013.

Tax offsets

A beneficiary may be entitled to claim certain tax offsets, such as those for:
- a dependent spouse (without dependent child or student)

- medical expenses
- private health insurance
- seniors and pensioners
- national rental affordability scheme (NRAS) tax offset
- foreign income tax offset.

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For more information, see Individual tax return instructions 2013.

If a trustee is assessable on behalf of a beneficiary who is presently entitled but under a legal disability, the trustee may be entitled to tax offsets to which that beneficiary would be entitled. Provide a statement on a separate sheet of paper showing the type and amounts of any claim for a tax offset. Sign the statement, attach it to the tax return and print **X** in the **Yes** box at **Have you attached any 'other attachments'?** at the top of page 1 of the tax return.

The income tests to assess eligibility have changed for the following offsets:
- a dependent spouse (without dependent child or student)
- seniors and pensioners.

If you are claiming a dependent spouse tax offset, you will need to work out the beneficiary's adjusted taxable income and their spouse's adjusted taxable income, see question T1 in *Individual tax return instructions 2013*.

If you are claiming the seniors and pensioners tax offset, you will need to work out the beneficiary's rebate income and include this on the statement attached to the trust return, see question T2 in *Individual tax return instructions 2013.*

Where eligible, the trustee will claim the Conservation tillage refundable tax offset in the trust tax return for the year at item **51 Other refundable tax offsets**: the offset claim does not flow directly to beneficiaries of the trust. For more information, see Conservation tillage refundable tax offset.

Net medical expenses tax offset

Where a trustee is assessed under section 98, the amount of net medical expenses tax offset a trustee can claim on behalf of the beneficiary depends on the beneficiary's share of the trust net income, spouse's adjustable taxable income (if any) and family status.

Where the beneficiary's share of the trust net income plus their spouse's adjusted taxable income (if any):
- does not exceed $84,000 for singles or $168,000 for a couple or family (plus $1,500 for each dependent child after the first), the trustee can claim an offset of 20% for eligible out of pocket expenses incurred by the beneficiary in excess of $2,120.
- exceeds $84,000 for singles or $168,000 for a couple or family (plus $1,500 for each dependent child after the first), the trustee can claim an offset of 10% for eligible out of pocket expenses incurred by the beneficiary in excess of $5,000.

To claim the net medical expenses tax offset, work out the beneficiary's total net medical expenses and provide it in a statement attached to the trust return. For more information see question T6 in *Individual tax return instructions 2013 or the* Net medical expenses tax offset calculator.

The statement is to be provided on a separate sheet of paper and show:
- trust’s name
- trust’s TFN
- beneficiary’s name
- beneficiary’s TFN
- beneficiary’s share of trust net income
- the amount of total net medical expenses claimed by, or on behalf of, the beneficiary
- full name of beneficiary’s spouse, if they had a spouse on 30 June
- spouse’s adjusted taxable income, if applicable
- number of the beneficiary’s dependent children, if applicable.

Sign the statement, attach it to the tax return and print **X** in the **Yes** box at **Have you attached any ‘other attachments’?** at the top of page 1 of your trust tax return.

The ATO will calculate the amount of offset the beneficiary is entitled to receive based on the information provided.

At the time of publishing these changes had not become law. For further information, go to www.ato.gov.au and search for Net medical expenses tax offset.

Private health insurance tax offset

If you are a trustee who is assessable on behalf of a beneficiary who is presently entitled but under a legal disability (see section 98 of the ITAA 1936) and the beneficiary is entitled to a tax offset under the private health insurance rebate, you can claim the tax offset for this rebate up to the value of any tax payable. To do this, provide a statement on a separate sheet of paper showing:
- trust's name
- trust's TFN (tax file number)
- beneficiary’s name
- beneficiary’s TFN
- beneficiary’s share of the net income of the trust estate
- beneficiary’s spouse’s income for surcharge purposes (if they had a spouse on 30 June 2013)
- for each policy
  - ‘Health insurer ID’ from label B on the beneficiary’s health insurance statement
  - ‘Membership number’ from label C on the beneficiary’s health insurance statement
  - ‘Your share of premiums paid in the financial year’ from label J on the beneficiary’s health insurance statement
  - ‘Your share of Australian Government Rebate received’ from label K on the beneficiary’s health insurance statement
  - ‘Benefit code’ from label L on the beneficiary’s health insurance statement
  - tax claim code (refer to Private health insurance policy details in *Individual tax return instructions 2013*)
  - number of beneficiary’s dependent children who are under 21 years old or full-time students under 25 years old.

Sign the statement, attach it to the trust tax return and print **X** in the **Yes** box at **Have you attached any 'other attachments'?** at the top of page 1 of the tax return.

Age-based percentage rebates apply to premiums paid for appropriate private health insurance cover provided on or after 1 April 2005. Details of the rebate levels are on the annual Private Health Insurance Statement issued by your health insurer.

For more information on private health insurance, see Private health insurance policy details in *Individual tax return instructions 2013* (NAT 71050).

Special cases

Corporate unit trusts and public trading trusts are taxed as companies, and so are required to lodge a *Company tax return 2013*. These entities are defined below and must apply for a company TFN.

The trust loss provisions of Schedule 2F to the ITAA 1936 apply to corporate unit trusts and public trading trusts (even though they are taxed as companies), except where the corporate unit trust or public trading trust is participating in the consolidation regime for taxing wholly owned groups as a single income tax entity.

For more information about the trust loss provisions, see appendix 8.

For detailed information about the treatment of losses under consolidation, see the Consolidation reference manual: select 'Part C – Detailed information' - 'C9 – Determine tax liabilities, determine obligations' – 'C9-5-110'.

Corporate unit trusts

A trust is a corporate unit trust for an income year if:

- the trust is a public unit trust
- under an arrangement, a business or property previously carried on or owned by a company is transferred to the unit trust and the shareholders of the company are entitled to take up units in the unit trust, and
- the trust is either a resident unit trust or was a corporate unit trust in a previous income year.

A public unit trust for this purpose is a trust whose units are listed on a stock exchange or offered to the public or held by 50 or more persons. A unit trust is not a public unit trust if 20 or fewer persons hold 75% or more of the beneficial interest of the income or the property of the trust.

A unit trust is a resident unit trust for an income year if, at any time during the income year:

- either
  - any property of the unit trust was situated in Australia, or
  - the trustee of the unit trust carried on business in Australia

and

- either
  - the central management and control of the unit trust was in Australia, or

- one or more persons who were residents held more than 50% of the beneficial interests in the income or the property of the unit trust.

Public trading trusts

A trust is a public trading trust, if:
- the trust is a public unit trust
- the trust is a trading trust
- either
  - the trust is a resident unit trust, defined as above under corporate unit trust, or
  - the trust was a public trading trust in a previous income year

and
- the trust is not a corporate unit trust.

A public unit trust for this purpose is a trust any of whose units are listed on a stock exchange or offered to the public or whose units are held by 50 or more persons, except where 20 or fewer persons hold or have the right to hold 75% or more of the beneficial interests in the income or property of the trust, and the Commissioner does not consider it reasonable to treat the trust as a public unit trust.

In addition, a unit trust is a public unit trust if one or more entities exempt from tax, or complying superannuation funds, complying approved deposit funds (ADF), or pooled superannuation trusts (PST) hold or have the right to hold 20% or more of the beneficial interests in the income or property of the trust, or are paid or credited with 20% or more of the moneys paid or credited by the trustee to the unit holders, or an arrangement exists whereby the two outcomes just outlined could have been obtained.

Broadly speaking, a trading trust for this purpose is a trust whose trustee:
- carries on a trading business, or
- controls, or is able to control, the carrying on of a trading business by another person.

A trading business for this purpose is a business that does not consist wholly of 'eligible investment business' consisting of:
- investing in land for rent
- investing or trading in loans, securities, shares, units in a unit trust, futures contracts, forward contracts, interest rate swap contracts, currency swap contracts, forward exchange rate contracts, forward interest rate contracts, life assurance policies, or rights or options in any of these, or
- investing or trading in other financial instruments that arise under financial arrangements (other than certain excepted arrangements).

From the 2008–09 income year there is a 2% safe harbour allowance at the whole of trust level for non-trading income and for investments in land there is a 25% safe harbour allowance for non-rental, non-trading income from those investments. However, the trustee of a unit trust may choose not to apply those safe harbours.

Annual investment income reporting

Managers of unit trusts that are investment bodies for the purposes of Part VA of the ITAA 1936 may be required under regulation 56 of the *Income Tax Regulations 1936* (ITR 1936) to lodge an *Annual investment income report* if they made distributions to unit holders during the year. The report requires details of distributions, including the amounts paid and the names of the payees. For more information, phone **1800 072 681**.

Payment arrangements

Paying your tax debt

Income tax debts must be paid by the due date.

You can make payments by one of the five methods explained in How to pay. For more information, phone **1800 815 886**.

If the trust tax return is lodged on time, any tax payable by the trustee is due on the later of:

- 21 days after the due date for lodgment of the tax return specified in the legislative instrument registered on the Federal Register of Legislative Instruments, or
- 21 days after receipt of the notice of assessment.

If the trust tax return is lodged late or not at all, any tax payable by the trustee is due 21 days after the due date for lodgment.

The general interest charge (GIC) accrues on outstanding amounts from the due date for payment.

For more information on the GIC, phone **13 28 66**.

What if you cannot pay your tax debt by the due date?

If you cannot pay your tax debt by the due date, phone Account management on **13 11 42** to avoid action being taken to recover the debt.

We expect you to organise your affairs to ensure that you can pay your debt on time. However, we may allow you to pay your debt under a mutually agreed payment plan if you have genuine difficulty paying your debt on time but have the capacity to eventually pay the debt. The GIC will continue to accrue on any outstanding amounts of tax during any payment arrangement.

In some circumstances the trustee may need to provide details of the trust's financial position, including a statement of its assets and liabilities and details of income and expenditure. We will also want to know what steps the trustee has taken to obtain funds to pay its tax debt and the steps the trustee is taking to meet future tax debts on time.

Schedules

Complete only one copy of the appropriate schedule.

Attach all completed schedules to the tax return unless otherwise directed. Returns lodged without all the required schedules may not be considered to have been lodged in the approved form. Unless all schedules are lodged by the due date, a failure to lodge on time penalty may be applied.

When completing the schedules print neatly in BLOCK LETTERS with a black pen.

Capital gains tax (CGT) schedule

You do not need to complete a *Capital gains tax (CGT) schedule 2013* (CGT schedule) if the trust was a subsidiary member of a consolidated group for the whole of the income year.

In other cases, complete a Capital gains tax (CGT) schedule 2013 and attach it to the trust's tax return if:

- the trust's total current year capital gains are greater than $10,000, or
- the trust's total current year capital losses are greater than $10,000.

The Guide to capital gains tax 2013 will help you complete the CGT schedule. It also includes:

- a capital gain or capital loss worksheet for calculating a capital gain or capital loss for each CGT event
- a CGT summary worksheet for calculating a net capital gain or net capital loss for the income year
- a CGT schedule.

Losses schedule

You need to complete a Losses schedule 2013 (NAT 3425) and attach it to the trust's tax return if the trust:

- has a total of tax losses and net capital losses carried forward to later income years greater than $100,000
- is a life insurance entity and has either complying superannuation/first home saver account (FHSA) class tax losses or a complying superannuation/first home saver account (FHSA) net capital loss carried forward to later income years
- is a listed widely held trust that is required to satisfy the same business test in Subdivision 269–F of Schedule 2F to the ITAA 1936 (as required by section 266–125 of Schedule 2F) to be able to claim a deduction for a tax loss in the 2012–13 income year or to apply a tax loss in a later income year; or, having passed the 50% stake test, has claimed a deduction for tax losses greater that $100,000
- has a foreign loss component of tax losses deducted in the 2012–13 income year carried forward to later income years
- has an interest in a controlled foreign company (CFC) that has current year losses, greater than $100,000
- has an interest in a CFC that has deducted or carried forward a loss to later income years greater than $100,000.

If you complete a losses schedule, transfer the totals of the amounts at part A of the losses schedule to the corresponding **U** and **V** at item **27 Losses information** on the trust tax return. However, if you do not need to complete a losses schedule but the trust has tax losses or net capital losses available to be carried forward to later income years, complete the information required at **U** and **V** at item **27** of the trust tax return as appropriate.

For more information, see the Losses schedule instructions 2013 (NAT 4088).

If you need to complete a losses schedule under the above criteria, you may also need to complete a CGT schedule.

For more information, see the Guide to capital gains tax 2013.

Non-individual PAYG payment summary schedule

Pay as you go (PAYG) withholding applies to several payments including:

- payments for a supply where no Australian Business Number (ABN) is quoted and no exemptions for quoting applied to the supplier
- payments arising from investments where no TFN or ABN is quoted, and
- certain payments to foreign residents prescribed in the Regulations.

If the payer withheld an amount from a payment to the trust because the trust did not quote an ABN, the payer should have sent a PAYG payment summary – withholding where ABN not quoted (NAT 3283) to the trust.

If the payer withheld an amount from a payment to the trust because of the operation of foreign resident withholding, the payer should have sent a PAYG payment summary – foreign employment (NAT 73297) to the trust.

A payer may issue a receipt, remittance advice or similar document in place of the PAYG payment summary – withholding where ABN not quoted or PAYG payment summary – foreign employment. If the trust did not receive or has lost its copy of a payment summary, contact the payer responsible and request a signed photocopy of the payer's copy.

Complete a Non-individual PAYG payment summary schedule 2013 if you show amounts at:

- **C** or **D** item **5**
- **B** item **5**
- **T** item **6**
- **U** item **6**.

Income subject to foreign resident withholding that has been included in a distribution received from other trusts or partnerships must be shown at item **8**. A *Non-individual PAYG payment summary schedule 2013* is not required for these distributions because they do not have an associated payment summary.

Print the trust's TFN and name in the appropriate boxes at the top of the schedule.

From each *PAYG payment summary – withholding where ABN not quoted or PAYG payment summary – foreign employment* issued to the trust from a payer record on the schedule the:

- payer's ABN (or withholding payer number)
- total tax withheld
- gross payment
- payer's name.

When you have entered details of all these payment summaries on the schedule, attach the schedule to the trust tax return.

Do **not** attach copies of any payment summary to the tax return. Keep them with the trust's copy of the tax return and keep a copy of the schedule with the trust's tax records.

International dealings schedule

If you answer **yes** at label **S** at item **22 Attributed foreign income** or if you answer **yes** at label **W** or **O** or completed label **D** or **E** at item **29 Overseas**

transactions/thin capitalisation you must complete an International dealings schedule 2013 (NAT 73345) and attach it to the trust's tax return.

For more information, see International dealings schedule instructions 2013.

You do **not** need to complete an *International dealings schedule 2013* (NAT 73345) if the trust was a subsidiary member of a consolidated group for the entire income year.

Where the trust is a member of a consolidated group for the whole income year and the thin capitalisation rules apply, the responsibility for preparing the schedule will rest on the head company of the consolidated group.

Where a return is required because the trust has a period in the income year when it was not a member of a consolidated group (a non-membership period), and the thin capitalisation rules apply to the trust during the non-membership period, the trust should complete an *International dealings schedule 2013*.

For more information about the thin capitalisation rules see appendix 3.

Completing the tax return – Page 1 Trust tax return

Attachments to the tax return

If these instructions ask you to provide additional information, attach the additional information to the tax return and print **X** in the **Yes** box at **Have you attached any 'other attachments'?** at the top of page 1 of the tax return. If, when you have finished completing this return, you have not attached any documents to it, print **X** in the **No** box.

Tax file number (TFN)

Print the TFN of the trust in the boxes provided.

Name of trust

The trust name should be consistent from year to year, except in the year of a name change.

If the trust name is legally changed, advise us in writing at the time the change is made.

Australian Business Number (ABN)

The ABN is a single, unique business identifier used for all dealings with the Australian government. It is also available to state, territory and local government regulatory bodies. Identification for tax law purposes is only one of the objects of the ABN.

Print the ABN of the trust in the boxes provided if the trust is registered in the Australian Business Register.

Follow the instructions on the trust tax return for the following items:
- **Previous name of trust**
- **Current postal address**
- **Postal address on previous tax return**.

Note: C/– is the preferred format for 'care of'.

Full name of the trustee to who notices should be sent

Show the surname or family name and given names of the trustee to who notices should be sent. If the trustee is a company, show the name and ABN of the company.

If the trust comprises the property of a bankrupt and the estate is being administered by the Official Receiver, print **OFFICIAL TRUSTEE IN BANKRUPTCY** in the box provided for the company name. Leave the individual name box blank.

Daytime contact phone number

Print a phone number that the trustee can be contacted during business hours.

Family trust election status and interposed entity election status

This item must be completed if any of the following apply.

Family trust elections

The trustee of the trust:

- is making a family trust election specifying the 2004–05 or later income year in accordance with section 272-80 of Schedule 2F to the ITAA 1936
- has previously made a family trust election specifying an income year from 1994–95 to 2011–12 in accordance with section 272-80 of Schedule 2F to the ITAA 1936 and, if applicable, items 22 or 22A of Schedule 1 to the *Taxation Laws Amendment (Trust Loss and Other Deductions) Act 1998* (Trust Loss Act), and that election has not been revoked in accordance with subsections 272-80(6) to (8) of Schedule 2F to the ITAA 1936 in an income year before the 2012–13 income year
- is revoking a previously made family trust election in accordance with section 272-80 of Schedule 2F to the ITAA 1936
- is varying the specified individual of a previously made family trust election in accordance with section 272-80 of Schedule 2F to the ITAA 1936.

Interposed entity elections

The trustee of the trust:

- is making one or more interposed entity elections specifying a day in the 2004–05 or later income year in accordance with section 272-85 of Schedule 2F to the ITAA 1936
- has previously made one or more interposed entity elections specifying a day in any income year from 1994–95 to 2011–12 in accordance with section 272-85 of Schedule 2F to the ITAA 1936 and, if applicable, items 23 or 23A of Schedule 1 to the *Trust Loss Act*, and at least one interposed entity election has not been revoked in an income year before the 2012–13 income year in accordance with subsections 272-85(5) and (6) of Schedule 2F to the ITAA 1936
- is revoking from the 2012–13 income year one or more previously made interposed entity elections in accordance with section 272-85 of Schedule 2F to the ITAA 1936.

A trustee cannot make a family trust election or interposed entity election specifying a year earlier than 2004–05 in the *Trust tax return 2013* (sections 272-80 and 272-85 of Schedule 2F to the ITAA 1936).

Family trust elections

Changes to section 272-80 of Schedule 2F to the ITAA 1936 allow a trustee to revoke a family trust election and vary the specified individual in a family trust election in certain limited circumstances.

A trustee cannot vary the specified individual or revoke a family trust election unless the variation or revocation satisfies certain conditions and is in respect of an income year that occurs during the period:

- starting at the beginning of the income year specified in the election and finishing at the end of the fourth income year after the income year specified in the election, or
- starting on 1 July 2007 and finishing on 30 June 2009.

The variation or revocation must be made with the entity's return of income for the income year from which the variation or revocation is to be effective.

Interposed entity elections

Changes to section 272-85 of Schedule 2F to the ITAA 1936 allow an interposed entity election to be revoked in certain limited circumstances.

A trustee cannot revoke an interposed entity election unless the revocation is in respect of an income year that occurs during the period:

- starting on 1 July 2007 and finishing on 30 June 2009, or
- starting at the later of:
  - the beginning of the income year specified in the election, or
  - the beginning of the income year in which the entity became a member of the family group
    and
  - finishing at the end of the fourth income year after the income year referred to in the above two dot points.

The revocation must be made with the entity's tax return for the income year from which the revocation is to be effective.

For more details see Family trusts – details of the amendments to increase flexibility for family trusts.

Instructions on how to complete the Family trust election, revocation or variation 2013 and Interposed entity election or revocation 2013 are on the forms themselves.

If you do not lodge the trust tax return electronically using ELS, then send the tax return with any *Family trust election, revocation or variation 2013* and *Interposed entity election or revocation 2013* to:

Australian Taxation Office
GPO Box 9845
IN YOUR CAPITAL CITY

Family trust election status

If the trustee of the trust has not made or is not making a family trust election, do not complete this item.

If the trustee has previously made a family trust election specifying an income year before the 2012–13 income year, write the appropriate income year in the four-digit box at this item.

If the trustee has previously made a family trust election specifying an income year before the 2004–05 income year and took advantage of the one-off opportunity in PS LA 2004/1 (GA) *Lodgment opportunity for family trust and interposed entity elections* to specify an earlier year, write the earlier income year specified.

If the trustee is making a family trust election specifying the 2004–05 or later income year, write the appropriate income year in the four-digit box at this item and complete a Family trust election, revocation or variation 2013 specifying the 2004–05 or later income year.

Revoking a family trust election

A family trust election can only be revoked by a trust that satisfies the relevant conditions in section 272-80 of Schedule 2F to the ITAA 1936.

Print **R** in the single box at this item if the family trust election made by the trust is being revoked in the 2012–13 income year. A Family trust election, revocation or variation 2013 must be completed and lodged with the 2012–13 tax return of the trust.

Varying the test individual of a family trust election

If the relevant conditions in section 272-80 of Schedule 2F to the ITAA 1936 are satisfied, the trust may vary an election so a different individual is specified as the individual whose family group is taken into account in relation to the election.

The variation must be in respect of an income year that occurs during the period:
- starting at the beginning of the income year specified in the election and finishing at the end of the fourth income year after the income year specified in the election, or
- starting on 1 July 2007 and finishing on 30 June 2009.

The trust may only vary the specified individual of a family trust election once, except where doing so under subsection 272-80(5C) of Schedule 2F to the ITAA 1936 in relation to a relevant order, agreement or award mentioned in paragraphs 126-5(1)(a) to (f) of the ITAA 1997.

Print **V** in the single box at this item if the specified individual of a family trust election is being varied from a time in the 2012–13 income year. A Family trust election, revocation or variation 2013 must be completed and lodged with the 2012–13 tax return of the trust.

Interposed entity election status

If the trustee has not made or is not making any interposed entity elections, do not complete this item.

If the trustee has previously made one or more interposed entity elections specifying a day in an income year before the 2012–13 income year, write the earliest income year specified in the box at this item.

If the trustee is making one or more interposed entity elections this year specifying a day in the 2004–05 or later income year, write the earliest income year specified in the box at this item, and complete an Interposed entity election or revocation 2013 for each election specifying a day in the 2004–05 or later income years.

Revoking an interposed entity election

An interposed entity election can only be revoked by a trust that satisfies all the relevant conditions in section 272-85 of Schedule 2F to the ITAA 1936.

Print **R** in the single box at this item if the interposed entity election made by the trust is being revoked from the 2012–13 income year. An Interposed entity election or revocation 2013 must be completed and lodged with the *Trust tax return 2013*.

Example 1: New elections, specifying the current year

> The trustee has not previously made a family trust election or an interposed entity election but wants to make a family trust election specifying the 2012–13 income year and make an interposed entity election specifying a day in the 2012–13 income year.
>
> Write:
> - **2013** in the box at **Family trust election status**, and
> - **2013** in the box at **Interposed entity election status**.
>
> Complete a *Family trust election, revocation or variation 2013* specifying the 2012–13 income year.
>
> Complete an *Interposed entity election or revocation 2013* specifying a day in the 2012–13 income year.
>
> Attach the completed forms to the *Trust tax return 2013*.

Example 2: New elections, specifying an earlier year

> The trustee has not previously made a family trust election or an interposed entity election. The trustee decides to make a family trust election specifying the 2004–05 income year and an interposed entity election specifying a day in the 2004–05 income year.
>
> Write:
> - **2005** in the box at **Family trust election status**, and
> - **2005** in the box at **Interposed entity election status**.
>
> Complete a *Family trust election, revocation or variation 2013* specifying the 2004–05 income year.
>
> Complete an *Interposed entity election or revocation 2013* specifying a day in the 2004–05 income year.
>
> Attach the completed forms to the *Trust tax return 2013*.

Example 3: Additional elections, specifying a current year

The trustee has previously made a family trust election specifying the 1996–97 income year and an interposed entity election specifying a day in the 1997–98 income year. The trustee decides to make another interposed entity election specifying a day in the 2012–13 income year.

Write:
- **1997** in the box at **Family trust election status**, and
- **2013** in the box at **Interposed entity election status**.

Complete an *Interposed entity election or revocation 2013* specifying a day in the 2012–13 income year.

Attach the completed form to the *Trust tax return 2013*.

Example 4: Revoking a family trust election

The trustee previously made a family trust election specifying the 2007–08 income year and is revoking the family trust election from a day in the 2012–13 income year. The trustee has not made any interposed entity elections.

Write:
- **2008** in the box at **Family trust election status**, and
- **R** in the single box at **Family trust election status** as the trustee is revoking a family trust election.

Complete a *Family trust election, revocation or variation 2013*.

Lodge the completed form with the *Trust tax return 2013*.

Note: An interposed entity election is taken to be revoked if the family trust election to which it relates is revoked.

Example 5: Varying a family trust election

The trustee previously made a family trust election specifying the 2007–08 income year, and an interposed entity election specifying the 2001–02 income year. The trustee is varying the specified individual of the family trust election from the first day in the 2012–13 income year.

Write:
- **2008** in the box at **Family trust election status**
- **2002** at **Interposed entity election status**, and
- **V** in the box at **Family trust election status** as the trustee is varying the specified individual of a family trust election.

Complete a *Family trust election, revocation or variation 2013*.

Lodge the completed form with the *Trust tax return 2013*.

Family trust distribution tax

A consequence of a trust making a family trust election or an interposed entity election is that under section 271-15 or section 271-20 of Schedule 2F to the ITAA 1936 a special tax, called family trust distribution tax (FTDT), is payable at 46.5% by the trustee on any conferral of present entitlement to, or distribution of, income or capital of the trust to persons who are not members of the family group of the specified individual within the meaning of section 272-90 of Schedule 2F to the ITAA 1936.

For this purpose a distribution of income or capital by a trust has the meaning given in sections 272-45 and 272-60 of Schedule 2F to the ITAA 1936.

The definition of 'family group' includes a former spouse, a former widow or widower, and a former stepchild.

If FTDT is payable by you, complete the Family trust distribution tax payment advice and post it with your FTDT payment to us at the address shown on the FTDT payment advice. Make cheques or money orders payable to the Deputy Commissioner of Taxation and print 'Not negotiable' across the cheque. Tender all cheques in Australian currency. Do not send cash by post.

Definition of spouse

Your spouse includes another person (whether of the same sex or opposite sex) who:

- you were in a relationship with that was registered under a prescribed state or territory law
- although not legally married to you, lived with you on a genuine domestic basis in a relationship as a couple.

Interaction between family trust distribution tax and TFN withholding for closely held trust rules

If you are the trustee of a trust that has made a family trust election or an interposed entity election and make a payment or distribution to a beneficiary that is not subject to FTDT, you need to consider the TFN withholding rules for closely held trusts.

For more information, see appendix 12.

Type of trust

Print in the first box at this item the code from **table 1** that best describes the type of trust for which the trust tax return is being lodged. Descriptions of the types of trust are at table 2.

Table 1: Trust codes

Code	Type
C	Special disability trust
D	Deceased estate
F	Fixed trust, other than a fixed unit trust or public unit trust described in U, P or Q
H	Hybrid trust
S	Discretionary trust, where the main source of income of the trust is from service and/or management activities
T	Discretionary trust, where the main source of income of the trust is from trading activities
I	Discretionary trust, where the main source of income of the trust is

	from investment activities
M	Cash management unit trust
U	Fixed unit trust, other than a public unit trust described in P or Q
P	Public unit trust (listed) other than a cash management unit trust
Q	Public unit trust (unlisted) other than a cash management unit trust

Charitable trust

Print **X** in the second box at **Type of trust** if the trust is also an item 1.1 registered charity that was a former 1.5 charitable trust under section 50-5 of the ITAA 1997.

Description of trusts

Table 2: Description of trusts

Type of trust	Description
Deceased estate	See appendix 9
Discretionary trust	A trust that is not a fixed trust within the meaning of section 272-5 of Schedule 2F to the ITAA 1936. See also section 102UC(4) of the ITAA 1936
Fixed trust	A trust in which persons have fixed entitlements (as defined in section 272-5 of Schedule 2F to the ITAA 1936) to all income and capital of the trust at all times during the income year
Fixed unit trust	A fixed trust in which interest in the income and capital of the trust are represented by units
Hybrid trust	A trust that is not a fixed trust but in which persons have fixed entitlements (as defined in section 272-5 of Schedule 2F to the ITAA 1936) to income or capital of the trust during the income year
Public unit trust	A fixed unit trust that is a widely held unit trust (as defined in section 272-105 of Schedule 2F to the ITAA 1936) at all times during the income year
Public unit trust: listed	A public unit trust in which any of its units were listed for quotation on the official list of a stock exchange in Australia or elsewhere during the income year
Public unit trust: unlisted	A public unit trust in which none of its units was listed for quotation on the official list of a stock exchange in Australia or elsewhere during the income year
Special disability trust	A trust that has the meaning given by section 1209L of the *Social Security Act 1991*

Managed investment trusts

If the trust is a managed investment trust, has the trustee made an election into capital account treatment?

With effect from the 2008–09 income year, trustees of eligible Australian managed investment trusts (MIT) can make an irrevocable election to apply the CGT provisions for the taxation of gains and losses on disposal of eligible assets.

Meaning of 'eligible MIT'

An eligible MIT is a managed fund that meets:
- the definition of a 'managed investment trust' in Subdivision 12-H in Schedule 1 to the TAA, or
- one of the extended definitions that allow the trust to be treated in the same way as an MIT for the purposes of the capital treatment election.

Who is eligible to make an election?

The trustee of an eligible MIT may make an election. The election must be made in the approved form.

How to make an election

For MITs that came into existence during the income year, a valid election is made by answering 'Yes' to the question asked on page 2 of the trust tax return. The election must be made on or before the day the trust is required to lodged its tax return for income year, or if the Commissioner allows a later day, that later day.

If you are the trustee of a MIT that came into existence in an earlier income year, you must still answer the question asked on page 2 of the trust tax return, regardless of whether you have previously made an election for capital treatment.

When does the election take effect?

For trusts that became an MIT before the 2009–10 income year, the election will have effect from the 2008–09 and later income years.

For trusts that became an MIT in the 2009–10 income year or a later year of income, the election will have effect for the income year in which the trust became an MIT and later income years.

For more information, see Managed investment trusts: election into capital treatment.

Is any tax payable by the trustee?

The trustee is generally liable to pay tax on:
- that part of the net income of the trust that has not been assessed to either a presently entitled beneficiary or the trustee on behalf of a presently entitled beneficiary, see Is a beneficiary presently entitled to a share of the income of the trust estate?

- shares of the net income of a trust in respect of beneficiaries, whether or not the beneficiaries are acting in their capacity as trustee of another trust estate, who are presently entitled to a share of the income of the trust estate but are non-resident at the end of the income year, see Non-resident beneficiaries – additional information
- shares of the net income of a trust in respect of beneficiaries who are presently entitled to a share of the income of the trust estate but are under a legal disability, see appendix 11
- if the trust is a special disability trust and the 'principal beneficiary' is an Australian resident at the end of the income year, the whole of the net income of the trust
- if an election has been made for the trustee to be assessed on a capital gain of the trust, the amount of the capital gain.

The rate of tax payable by the trustee will depend on the type of trust and the beneficiary's individual circumstances.

If the beneficiary is presently entitled to a share of the income of the trust estate, not under a legal disability, and is a resident at the end of the income year, then the beneficiary, not the trustee, is generally taxed on that same percentage share of the net income of the trust. This amount may be different if any beneficiary or the trustee has been made 'specifically entitled' to an amount of franked distribution or capital gains (i.e. the capital gain or franked distribution has been streamed to a particular beneficiary).

If the trustee is liable to pay any tax, print **X** in the **Yes** box at this item even if payments have been made in advance. Otherwise, print **X** in the **No** box.

Net income means the total assessable income calculated as if the trustee was a resident taxpayer, less all allowable deductions, except deductions for net farm management deposits, for more information see appendix 11. In the case of any beneficiary with no beneficial interest in the trust corpus, past losses are required to be met out of corpus.

Request for a non-taxable advice

If the trustee is not assessed on income and a non-taxable advice is required, provide a request on a separate sheet of paper headed 'Request for a non-taxable advice' and include the trust name and TFN with the details. Sign the request, attach it to the tax return and print **X** in the **Yes** box at **Have you attached any 'other attachments'?** at the top of page 1 of the tax return.

Final tax return

Print **X** in appropriate box.

If the trustee does not expect to lodge further tax returns, provide a statement on a separate sheet of paper headed 'Final trust tax return' showing:
- the reason further tax returns will not be lodged, and
- the manner of disposal of any assets of the trust if not disclosed elsewhere on the tax return.

Attach the statement to the tax return and print **X** in the **Yes** box at **Have you attached any 'other attachments'?** at the top of page 1 of the tax return.

If the trust is a subsidiary member of a consolidated group, print **X** in the **No** box at **Final tax return** if membership of the consolidated group is the only reason for which the trust will not be required to lodge future returns.

Electronic funds transfer (EFT)

Direct refund

Complete your account details even if you have provided them to us before.

Complete the following:
- Bank state branch (BSB) number – this six-digit number identifies the financial institution.
- Account number – this number should not have more than nine characters, and should not include spaces.
- Account name – in most cases, your account name should be what is shown on your bank account records. It should include spaces between each word and between initials. If your account name exceeds 32 characters, provide the first 32 characters only.

Direct debit

The trustee can pay tax owing directly from their account using EFT. A trustee can provide separate account details for direct debit and direct refund.

To use direct debit

Trustees can arrange direct debit by using a tax agent who can lodge tax returns through the electronic lodgment service (ELS), or by completing a direct debit request form. Allow at least five working days for processing of the direct debit request form. Tax agents can transmit payment details up to three working days before the due date once the direct debit request has been processed, for more information, phone **1800 802 308**.

If the trustee used direct debit last year and the account details provided are correct, you do not need to make another request. The notice of assessment will display a message that the tax debt will be debited from the nominated account on the due date.

If the account details have changed, complete a direct debit request if you want to use direct debit this year.

A direct debit request remains in force until it is cancelled. Cancellations must be received three business days before the payment date.

There is no provision for a direct debit election on the tax return. The direct debit request is also available as part of ELS software packages.

Remainder of trust tax return

1 Description of main business activity

Describe as accurately as possible the business activity from which the trust derived most of its gross income, for example beef cattle breeding, vegetable growing, clothing manufacturing, confectionary wholesaling, domestic appliance retailing, investing in shares and stocks, investing in residential property. Do not use general descriptions such as farming, manufacturing, wholesaling or investing.

Industry code

Show at **A** the appropriate industry code for the trust's main business. The codes are listed in Business industry codes 2013 (NAT 1827).

Code the business activity as accurately as possible. The industry code is made up of five digits. For example, if the industry is 'dairy cattle farming', the code on the tax return is shown as **01600**.

An incorrect code may result in taxpayers not receiving a necessary service or material from us, or could lead to incorrect targeting of audits. The industry code provided is also used to publish industry benchmarks in Taxation statistics.

The industry coding regime used by us is a modified version of the Australian and New Zealand Standard Industrial Classification (ANZSIC), produced jointly by the Australian Bureau of Statistics (ABS) and Statistics New Zealand.

2 Status of business

Print **X** at **B1**, **B2**, or **B3** to show the appropriate description for the status of the business. If more than one selection applies, select the first applicable option. If none of the selections applies, leave **B1** to **B3** blank.

Consolidation status

Print **X** at **Z2** if the trust was a subsidiary member of a consolidated group at any time during the income year.

In this case the tax return is for the period during which the trust was not a subsidiary member of a consolidated group in the income year (non-membership period). If applicable, it will be necessary to complete an International dealings schedule 2013 (NAT 73345) for periods attributable to the non-membership period. For information about reporting multiple non-membership periods during the year, see Consolidation reference manual – then select 'Part C - Detailed information' - 'C9 – Determine tax liabilities, determine obligations' – 'C9-5-110'.

If the trust was a member of a consolidated group for the whole income year, the responsibility for preparing the schedules will rest on the head company of the consolidated group.

In this case, the tax return is for the period during which the trust was not a subsidiary member of a consolidated group in the income year. If you print **X** at **Z2** the trust does not need to complete an *International dealings schedule 2013.*

4 Did you sell any goods or services using the internet?

Print **X** in the **Yes** box at **Q** if you used the internet in deriving income to:

- receive orders for goods or services, for example you received orders by email or a web page form rather than by conventional post, or fax
- receive payment for goods or services, for example, you received
  - credit card or charge card details by email or web page form rather than by conventional post, phone or fax
  - digital cash
- deliver goods or services, for example, you
  - used email, the world wide web (www) or file transfer protocol (FTP) to deliver digitised music, news articles or software rather than conventional post to deliver software on a disc

  - used email, in conjunction with a website, to give advice and received a payment in connection with this advice
  - advertised goods or services of other businesses for a fee on the internet
  - hosted websites, or
  - provided access to the internet.

Print **X** in the **No** box at **Q**, if you used the internet only to:
- advertise your goods or services
- give support to your customers
- buy your stock
- do your banking.

Income excluding foreign income

5 Business income and expenses

The amounts you include here, at business income **C** to **G** and **D** to **H**, and expenses **P** to **N**, are generally accounting system amounts (which may require specific adjustment, for example to exclude GST) subject to two exceptions for small business entities.

Small business entities choosing to use:
- the simplified trading stock rules should use tax values for their closing stock in calculating their cost of sales shown at **E**
- the simplified depreciation rules should use tax values for their depreciation expenses at **K**.

For more information on small business entities, see appendix 14.

The accounting system amounts are shown or included on the business profit and loss statements and form the basis of the calculation of the trust's business net income or loss for tax purposes. Make adjustments to these accounting amounts for tax purposes at item **5 Reconciliation items**.

Goods and services tax (GST) is payable by entities that are registered, or required to be registered, for GST. If GST is payable on income, exclude the GST from the income derived. Exclude input tax credit entitlements on outgoings from deductions. Some GST adjustments (occurring, for example, where the percentage of business use of an asset changes) may be included in assessable income or allowed as deductions.

Only include at item **5**:
- business income amounts derived directly by the trust – include distributions received from other trusts and partnerships at item **8 Partnerships and trusts**
- Australian-sourced income – include foreign source income at item
  - **22 Attributed foreign income**
  - **23 Other assessable foreign source income**.

Income and expenses are divided into three columns:
- primary production, showing relevant amounts of income and expenses from primary production
- non-primary production, showing relevant amounts of income and expenses from non-primary production
- totals, showing the total of the previous two columns.

Income subject to foreign resident withholding is shown at **B** in the **Non-primary production** column and the **Totals** column.

If the trust is eligible and is continuing to use the simplified tax system (STS) accounting method, see Specific reconciliation adjustments – Former STS taxpayers. Otherwise, see the information for all trusts.

Ceasing use of the STS accounting method

If the trust has discontinued using the STS accounting method, business income and expenses that have not been accounted for (because they have not been received or paid) are accounted for in this year. You may need to make additional reconciliation adjustments. See Specific reconciliation adjustments – Former STS taxpayers.

Income

All trusts

Gross payments where ABN not quoted

Show at **C** and **D** item **5**, as appropriate, gross income received by the trust that was subject to withholding where an Australian Business Number (ABN) was not quoted, this includes amounts of tax withheld.

If you show an amount at **C** or **D**, complete a *Non-individual PAYG payment summary schedule 2013* and attach the completed schedule to the trust tax return. For instructions on completing this schedule see Non-individual PAYG payment summary schedule 2013.

If you complete **C** or **D**, show the corresponding amount of tax withheld where an ABN was not quoted at **T** item **6**.

Gross payments subject to foreign resident withholding

Show at **B** item **5** gross payments to the trust that were regulated foreign resident income. Gross payments include amounts withheld.

Complete this entry only if the trust is a non-resident trust. For a resident trust, do not include an amount, such as foreign sourced income, at this entry.

'Regulated foreign resident income' refers to payments that are prescribed in the Tax Administration Regulations 1976 as being subject to the foreign resident withholding measure.

Do not include payments where the amount was varied to nil under the foreign resident withholding measure because the income was not taxable under a tax treaty.

If an amount is shown at **B**, complete a *Non-individual PAYG payment summary schedule 2013* and attach the completed schedule to the trust tax return. For instructions on completing this schedule, see Non-individual PAYG payment summary schedule 2013 (NAT 3422).

Show gross distributions of regulated foreign resident income from partnerships and other trusts at item **8**. A *Non-individual PAYG payment summary schedule*

2013 is not required for these distributions because they do not have an associated payment summary.

You will not have any primary production amounts at this item.

Assessable government industry payments

Generally, government credits, grants, rebates, bounties and subsidies are assessable income in the hands of the recipient if they are received in, or in relation to, the carrying on of a business. This generally includes amounts of a capital nature. However, amounts relating to the commencement or cessation of a business may not be assessable as income directly, but may give rise to a capital gain.

Show at **E** and **F**, as appropriate, the total amount of assessable government industry assistance, examples are:
- bounties
- cleaner fuels grant
- drought relief
- employee subsidies
- export incentives grants
- fuel grant under the energy grants credits scheme
- fuel tax credits
- industry restructure and adjustment payments
- producer rebate (wine equalisation tax)
- product stewardship (oil) benefit.

If the amount at **E** or **F** includes fuel tax credits or a fuel grant under the energy grants credits scheme, cleaner fuels grant or a product stewardship (oil) benefit, print **D** in the CODE box at the right of the amount.

Medical practices should show their Medicare payments at **H** Other business income, not at **F** Assessable government industry payments.

For more information, see Taxation Ruling TR 2006/3: *Income tax: government payments to industry to assist entities (including individuals) to continue, commence or cease business*.

Other business income

Show at **G** and **H**, as appropriate, other business income such as revenue arising from the sale of goods, services rendered, disposal of depreciated assets, work in progress amounts assessable under section 15-50 of the ITAA 1997 and royalties. Even if the TOFA rules apply to the trust's financial arrangement, show at G or H amounts that would be brought to account under the TOFA rules.

Do not include amounts that are shown at **C**, **B**, **D**, **E** and **F**.

If the amount at **G** or **H** is a loss, print **L** in the box to the right of the loss amount.

If you have included an amount for profit on the sale of depreciating assets at **G** or **H**, see appendix 6.

If what you show at **G** or **H** includes an amount that is brought to account under the TOFA rules, also complete item **31 Taxation of financial arrangements (TOFA)**.

For more information, see Guide to the taxation of financial arrangements (TOFA) rules.

Expenses

Apart from two exceptions for small business entities mentioned below, the amounts shown at **P** to **N** item **5** are amounts derived from the accounting system or financial statements of the trust. Make any adjustments to these amounts for tax purposes at **Reconciliation items B Expense reconciliation adjustments**.

Small business entities using the simplified trading stock rules should use tax values for their closing stock in calculating their cost of sales shown at **E**.

If the amount at **E** is a loss, print **L** in the box to the right of the loss amount.

Small business entities using the simplified depreciation rules should use tax values for their depreciation expenses at **K**.

If the trust is registered or required to be registered for GST, exclude input tax credit entitlements on outgoings from deductions.

If any expenses have been prepaid, the prepayment provisions may affect the timing of the deduction that can be claimed. Generally, the trust will need to apportion its deduction for prepaid business expenditure over the service period or 10 years, whichever is less. There are some exceptions to this under the 12-month rule for small business entities. If the amounts shown as expenses at item **5** differ from the amount allowable as deductions in the 2012–13 income year, make a reconciliation adjustment at **B** item **5**.

For more information, see Deductions for prepaid expenses 2013 (NAT 4170).

Foreign resident withholding expenses

Show at **P** item **5** all expenses directly relating to gaining the income shown at **B Gross payments subject to foreign resident withholding**, item **5**. These amounts should not be shown at any other expense entry in item **5.** Do not include any expenses incurred in gaining income not assessable in Australia.

Complete this entry only if the trust is a non-resident trust. For a resident trust do not include expenses, such as expenses incurred in deriving foreign sourced income, at this entry.

You will not have any primary production amounts at this item.

Contractor, subcontractor and commission expenses

Show at **C** the expenditure incurred for labour and services provided under contract other than those in the nature of salaries and wages, for example:

- payments to self-employed people, such as consultants and contractors
- commissions paid to people not receiving a retainer
- agency fees such as advertising
- service fees such as plant service
- management fees
- consultant fees.

Do not include the following at **C**:

- expenses for external labour which are incorporated into the amount shown at **E Cost of sales**
- expenses for accounting or legal services – show these at **N All other expenses**.

Record keeping

Keep a record of the following:

- name and address of the payee
- nature of the services provided
- the amount paid.

Superannuation expenses

Show at **D** the employee superannuation expenses incurred for the income year.

Employers are entitled to a deduction for eligible contributions made to a complying superannuation, provident, benefit or retirement fund, or retirement savings account (RSA), where the contribution is to provide superannuation benefits for employees or to provide benefits to the employee's dependants on the employee's death.

Employers can claim a deduction for eligible superannuation contributions made in respect of a former employee within four months of the employee ceasing employment and at any time after the employee ceases employment for defined benefit interests.

Superannuation benefits mean payments for superannuation member benefits or superannuation death benefits.

You can claim a deduction in the income year in which the contributions are made.

Contributions made to a non-complying fund:

- are not allowable as a deduction
- do not count towards superannuation guarantee obligations.

Under the superannuation guarantee legislation, an employer needs to provide a minimum level of superannuation for employees or pay the superannuation guarantee charge (SGC) that is payable on the superannuation guarantee shortfall.

The SGC is not a superannuation contribution and is not tax deductible. Employers may not claim a tax deduction for any late contribution that they make to reduce the amount of SGC that they have to pay under the superannuation guarantee late payment measures.

Contributions paid by an employer for employees to a non-complying superannuation fund are fringe benefits and may be subject to tax under the *Fringe Benefits Tax Assessment Act 1986*.

There is no limit on the amount of contributions that can be claimed as a deduction by an employer contributing to a complying superannuation fund or RSA in respect of employees under the age of 75 years. However, the employee may be subject to excess concessional contributions tax at the rate of 31.5% on excess concessional contributions in a financial year if their concessional contributions exceed the concessional contributions cap of $25,000.

If an employee has reached the age of 75 years, there is a restriction on the deduction that can be claimed for an employer contribution to a complying superannuation fund or RSA. For contributions made after the 28th day of the month following the employee's 75th birthday, the deduction claimable is limited to the amount of the contribution required under an industry award, determination or notional agreement preserving state awards

For more information, see Concessional contributions cap.

Cost of sales

Small business entities

If the trust is a small business entity using the simplified trading stock rules, you will need to know the value of its closing stock in order to calculate cost of sales. Small business entities only need to account for changes in the value of their trading stock in limited circumstances. If the trust does not need to account for the change in value of closing stock, its closing stock will equal its opening stock value. If the trust does need to account for the change in value of closing stock, or chooses to do so, see item 40 Closing stock for information about how to calculate the closing stock value.

All trusts

Show at **E** item **5** the cost of anything produced, manufactured, acquired or purchased for manufacture, sale or exchange in deriving the gross proceeds or earnings of the business. This includes freight inwards and may include some external labour costs, if these are recorded in the cost of sales account in the normal accounting procedure of the business.

If the cost of sales account is in credit at the end of the income year (that is, a negative expense) then print **L** in the box at the right of the amount. Do not print brackets around the amount.

For more information on the circumstances in which packaging items held by a manufacturer, wholesaler or retailer are 'trading stock' as defined in section 70-10 of the ITAA 1997, see TR 98/7 *Income tax: whether packaging items (i.e. containers, labels, etc) held by a manufacturer, wholesaler or retailer are trading stock.*

Bad debts

Show at **F** item **5** the bad debts expense incurred for the income year.

- Show recovery of bad debts at **G** or **H** as appropriate at **Other business income**.
- You cannot claim a deduction for bad debts unless the debt that is bad has previously been included in assessable income, or is for money lent in the ordinary course of the business of the lending of money by a trust carrying on that business. Accordingly, you cannot generally claim a deduction for an unpaid present entitlement that has been written off as a bad debt under section 25-35 of the ITAA 1997.
- Under the Trust losses provisions of Schedule 2F to the ITAA 1936, certain rules have to be satisfied by a trust before the trustee can deduct bad debts or debt equity swap amounts, for more information about the trust loss provisions, see appendix 8.
- Do not include accounting provisions for doubtful debts at **F**. Show these under all other expenses at **N** then add them back at **B Expense reconciliation adjustments**. To calculate the amount of the expense reconciliation adjustment see worksheet 1.
- Before a bad debt can be claimed, it must be bad and not merely doubtful. The deduction depends upon the facts in each case and, where applicable, the action taken for recovery. For more information, see TR 92/18 *Income tax: bad debts*.

You can claim a deduction for partial debt write-offs where only part of a debt is bad and is written off. You can claim a deduction for the amount written off.

Deductions for bad debts may be reduced by the commercial debt forgiveness provisions, see appendix 4.

You can claim a deduction for losses incurred in debt and equity swaps for debt written off. You may be able to claim a deduction for a debt and equity swap by the trust if the provisions of sections 63E to 63F of the ITAA 1936 are satisfied. Under these provisions a deduction may be allowable for the difference between the amount of the debt extinguished and the greater of the market value of the equity or the value at which the equity is recorded in the creditor's books at the time of issue. The market value of the equity is the price quoted on the stock exchange or, if the equity is not listed, the net asset backing of the equity.

If the trust is not in the business of lending money, the deduction is limited to the amount of the debt that has been included in assessable income.

Even if the TOFA rules apply to the trust, show at **F** item **5** all the trust's bad debts. This includes amounts from financial arrangements subject to the TOFA rules.

If what you show at **F** includes an amount that is brought to account under the TOFA rules, also complete item **31 Taxation of financial arrangements (TOFA)**.

For more information, see Guide to the taxation of financial arrangements (TOFA) rules.

Record keeping

If the trust writes off bad debts during the income year, keep a statement for all debtors in respect of which a write-off occurred, showing:

- their name and address
- the amount of the debt
- the reason why the debt is regarded as bad
- the year that the amount was returned as income.

Lease expenses

Show at **G** item **5** the expenditure incurred through both finance and operating leases on leasing assets, such as motor vehicles, plant or other equipment. Do not include the cost of leasing real estate or capital expenditure incurred to terminate a lease or licence.

Although capital expenditure to terminate a lease or licence is not deductible in one year, a five-year straight-line write-off may be allowable (see section 25–110 of the ITAA 1997) for certain capital expenditure incurred to terminate a lease or licence if the expenditure is incurred in the course of carrying on a business, or in connection with ceasing to carry on a business, see worksheet 1.

Expenses incurred under a hire-purchase or instalment sale agreement of goods, are not lease expenses. Such expenses are referred to in appendix 6.

In some circumstances, lease expenses may be debt deductions for the purposes of the thin capitalisation rules. For information on thin capitalisation, see appendix 3.

In certain cases, an amount of tax (withholding tax) is withheld from amounts paid or payable under equipment leases to non-residents and overseas branches of residents, and must be remitted to the ATO. This is also subject to the operation of any relevant tax treaties (treaties). If you have withheld amounts from payments to non-residents, you may need to lodge a PAYG withholding from interest, dividend and royalty payments paid to non-residents – annual report by 31 October 2013. For more information, phone **13 28 66**.

If an amount of lease expense is not allowable as a deduction, such as amounts disallowed under the thin capitalisation rules, add back the amount at **B Expense reconciliation adjustments**.

Record keeping

If a deduction is claimed for the cost of leasing depreciating assets, keep a record of the following:

- a description of the items leased
- full particulars of the lease expenses for each item, including motor vehicles, showing
    - who the payments were made to
    - the terms of the payments including details of any prepayments or deferred payments
    - if any assignment, defeasance or re-direction to pay the payments was entered into, full particulars of the arrangement including to whom the payments were made
- details of use other than for producing assessable income
- any documentation on or relating to the lease of the items.

Rent expenses

Show at **H** item **5** the expenditure incurred as a tenant for the rental of land and buildings used in the production of income.

Total interest expenses

Show at **I** item **5** the interest incurred on money borrowed within Australia and overseas to acquire income-producing assets, to finance business operations or to meet current business expenses.

Even if the TOFA rules apply to the trust, show at **I** all interest incurred on money borrowed within Australia and overseas to acquire income-producing assets, to finance business operations or to meet current business expenses, this includes interest from financial arrangements subject to the TOFA rules.

Do not include interest expenses incurred in relation to deriving rental income, these interest deductions are shown at **G** item **9**.

Interest paid or payable to non-residents

An amount of tax, withholding tax, is generally required to be withheld from interest paid or payable to non-residents and to overseas branches of residents by the resident payer.

- If you are a payer, you must withhold the tax and remit this to the ATO.
- If you have withheld amounts from payments to non-residents, you may need to lodge a PAYG withholding from interest dividend and royalty payments paid to non-residents – annual report by 31 October 2013. For more information, phone **13 28 66**.
- Do not use the trust return as a substitute for the *PAYG withholding from interest dividend and royalty payments paid to non-residents – annual report*.

The thin capitalisation rules may apply to reduce interest deductions.

- These rules place a limit on the amount of interest and other loan costs that can be deducted for Australian tax purposes, for more information, see appendix 3.
- Include the disallowed amount at **B Expense reconciliation adjustments**.

Distributions made by the issuer of a non-share equity interest are not deductible.

You may not be able to claim interest in certain situations, for example, if it has been incurred for private or domestic purposes.

If what you show at **I** includes an amount which is brought to account under the TOFA rules, also complete item **31 Taxation of financial arrangements (TOFA)**.

Show the amount of interest not allowable as a deduction at **B Expense reconciliation adjustments**.

For more information, see Guide to the taxation of financial arrangements (TOFA) rules.

Record keeping

If interest is paid to non-residents or to overseas branches of residents, keep a record of the following:

- name and address of recipient
- amount of interest paid or credited
- amount of withholding tax withheld and the date on which it was remitted to the ATO.

Total royalty expenses

Show at **J** the royalty expenses for the income year, include royalties paid to residents and non-residents.

Royalties paid or payable to non-residents

An amount of tax, withholding tax, is generally required to be withheld from royalties paid or payable to non-residents and to overseas branches of residents by the resident payer.

- If you are a payer, you must withhold the tax and remit this to the ATO.
- If you have withheld amounts from payments to non-residents, you may need to lodge a PAYG withholding form interest dividend and royalty payments paid to non-residents – annual report by 31 October 2013. For more information, phone **13 28 66**.
- Do not use the trust return as PAYG withholding from interest dividend and royalty payments paid to non-residents - annual report.

Record keeping

Keep a record of the following:

- name and address of recipients
- amounts paid or credited
- nature of the benefit derived, for example, a copy of the royalty agreement
- details of tax withheld where applicable and the date on which it was remitted to the ATO.

For more information, see appendix 2.

Depreciation expenses

If the trust is an eligible small business entity and has chosen to use the simplified depreciation rules, see Small business entities and the information for **All other trusts** below.

All other trusts

Show at **K** the book depreciation expenses for depreciating assets, other than for those assets allocated in a prior year to a general small business pool or a long life small business pool. For assets allocated to the pool, include at **K** the amount of the pool deduction to be claimed for tax purposes. For information about small business entity depreciation deductions, see Small business entities.

From the 2012–13 income year the long life small business pool and the general small business pool have been consolidated into a single pool. This change applies even if you are no longer using the simplified depreciation rules.

The amount at **K** does not include:

- profit on the sale of a depreciating asset, shown at **G** or **H Other business income**
- loss on the sale of a depreciating asset, shown at **N All other expenses**.

The accounting or book depreciation may differ from the deduction for the decline in value of depreciating assets. Reconcile the deduction for the decline in value of depreciating assets with accounting depreciation at **B Expense reconciliation adjustments**.

For more information about deductions for the decline in value of depreciating assets, see appendix 6.

Simplifying tax obligations for business

Our PS LA 2003/8 *Taxation treatment of expenditure on low cost items for taxpayers carrying on a business* provides guidance on two straightforward methods, which can be used by taxpayers carrying on a business to help determine whether expenditure incurred to acquire certain low-cost items is to be treated as revenue or capital.

Subject to certain qualifications, the two methods cover expenditure below a threshold and the use of statistical sampling to estimate total revenue expenditure on low-cost items. The threshold rule allows an immediate deduction for qualifying low-cost business items costing $100 or less. The sampling rule allows taxpayers with a low-value pool to use statistical sampling to determine the proportion that is revenue expenditure.

A deduction for expenditure incurred on low-cost tangible assets calculated in accordance with this Practice Statement will be accepted by us.

Small business entities

If the trust is an eligible small business entity and has chosen to use the simplified depreciation rules, show at **K** the total depreciation deductions being claimed by the trust under the simplified depreciation rules and the uniform capital allowances (UCA) rules.

From the 2012–13 income year the long life small business pool and the general small business pool have been consolidated into a single pool.

Small business entities can claim an immediate deduction for most depreciating assets costing less than $6,500 (excluding input tax credit entitlements) and pool most of their other depreciating assets in a general small business pool.

Small business entities can also claim an accelerated initial deduction of $5,000 for eligible motor vehicles acquired this income year. The cost of the motor vehicle is added to the general pool but unlike other assets, the deduction is $5,000 plus 15% of the remaining amount.

A small business entity choosing to use these simplified depreciation rules must use both the immediate write-off and the pooling where applicable. You can’t choose to use one and not the other.

Some depreciating assets are excluded from these simplified depreciation rules, but you may be able to claim a deduction under the UCA rules, for example horticultural plants including grapevines are excluded from the small business entity depreciation rules and are deducted under special UCA provisions in appendix 6.

Assets that are leased out, or will be leased out, by a small business entity for more than 50% of the time on a depreciating asset lease are specifically excluded from the simplified depreciation rules. You can generally claim a deduction under the UCA provisions.

This exclusion does not apply to depreciating assets a taxpayer leases out under a hire-purchase agreement or a short-term hire agreement.

For certain depreciating assets used by a small business entity in the course of carrying on a business of primary production, a taxpayer can choose whether to use these simplified depreciation provisions or specific UCA provisions. The specific UCA provisions are those applying to landcare operations, water facilities, electricity connections and telephone lines, for more information on these specific UCA provisions, see appendix 6.

As the small business entity depreciation rules apply only to depreciating assets, certain capital expenditure incurred by a small business entity that does not form part of the cost of a depreciating asset may be deducted under the UCA provisions for deducting capital expenditure, this includes capital expenditure on certain business-related costs and amounts directly connected with a project.

Do not include these amounts at **K** – show the amount that you can claim as a deduction at **B Expense reconciliation adjustments**, for more information see appendix 6.

For more information about the small business entity depreciation rules, see Concessions for small business entities (NAT 71874).

Calculating depreciation deductions for small business entities

Only use steps **1** to **6** to calculate the depreciation deductions if the trust is an eligible small business entity and has chosen to use these simplified depreciation rules.

If the profit and loss statement of the trust provides the amounts to complete table 4, write these amounts in the table. Otherwise, use steps **1** to **6** to calculate the depreciation deductions.

The amounts you write in the table must be tax and not accounting values.

Table 3: Explanation of terms

Term	Explanation
Depreciating asset	is an asset with a limited effective life, which declines in value over that life.
Decline in value (previously 'depreciation')	is the value that an asset loses over its effective life.
Adjustable value of a depreciating asset	is its cost (excluding input tax credit entitlements), less its decline in value since you first used it or installed it ready for use for any purpose, including a private purpose.
Taxable purpose	includes the purpose of producing assessable income.

Taxable purpose proportion	is the extent to which you use the asset for a taxable purpose, such as for the purpose of producing assessable income.
Termination value	includes money received from the sale of an asset or insurance money received as the result of the loss or destruction of an asset. Exclude the GST component where the amount received is for a taxable supply.
Assessable balancing adjustment amount	arises where the termination value of the depreciating asset is more than the adjustable value.
Deductible balancing adjustment amount	arises where the termination value of the depreciating asset is less than the adjustable value.
Cost addition amounts	include the costs of capital improvements to assets and costs reasonably attributable to disposing of or permanently ceasing to use an asset (this may include advertising and commission costs or the costs of demolishing the asset).

From the 2012–13 income year:

- the small business instant asset write-off threshold has increased from $1,000 to $6,500
- small businesses can claim an accelerated initial deduction for motor vehicles acquired in 2012–13 and subsequent years
- the long life small business pool and the general small business pool have been consolidated into a single pool to be written off at 15% in the year of allocation and 30% in following years.

Step 1
Deduction for certain assets (costing less than $6,500)

For each depreciating asset:

- which the trust started to hold this income year and used (or installed ready for use) for a taxable purpose such as for producing assessable income
- for which the cost at the end of 2012–13 is less than $6,500 (excluding input tax credit entitlements), and
- which qualifies for a deduction under the small business entity depreciation rules

then work out the extent it is used for the purpose of producing assessable income (taxable purpose proportion). Calculate the deduction for each eligible asset as follows:

Asset's adjustable value X its taxable purpose proportion

The adjustable value of an asset, at the time it was first used (or installed ready for use) for a taxable purpose, will be its cost unless the asset was previously used (or installed ready for use) by the trust solely for private purposes. For example, for a computer bought on 1 December at a cost of $4,800 (excluding input tax credit entitlements) and used for producing assessable income from that date at an estimated 70% of the time, the immediate deduction would be $4,800 x 70% = $3,360.

Add up these results and write the total at (a) in table 4.

Do **not** include in this calculation

- amounts for depreciating assets the trust started to hold prior to commencing to use the simplified depreciation rules and that cost less than $6,500. Allocate these assets to a general small business pool (see step 2).
- amounts for depreciating assets that cost $6,500 or more, but the taxable purpose proportion determines an amount to be deducted of less than $6,500. Such assets must be allocated to the general small business pool (see step 2). For example, if the computer bought above cost $6,800, the taxable purpose proportion is $4,760 ($6,800 x 70%), which is less than the $6,500 instant deduction threshold. However, the computer must still be allocated to the general small business pool because its cost is above $6,500.

Step 2
General small business pool deduction

To calculate the deductions for the general small business pool, you must first calculate the opening pool balance of the pool.

The opening balance of the general small business pool is the closing pool balance for the previous income year except where an adjustment is made to reflect the changed business use of a pooled asset. For the 2012–13 income year, the opening balance of the general small business pool will also include the closing balance of a long life pool that was used in the 2011–12 income year.

Example 6

> Chantal's Café is a small business entity and at the end of the 2011–12 income year the closing balance of its long life pool was $8,000 and the closing balance of its general small business pool was $10,000. For the 2012–13 income year, Chantal's Café long life pool no longer exists, but its general small business pool opening balance is now $18,000.

When allocating each depreciating asset the trust holds at the start of the income year to the general small business pool, only include the taxable purpose proportion of the adjustable value of each depreciating asset. For example, for an asset with an adjustable value of $10,000, which is used only 50% for an income-producing purpose, add only $5,000 to the pool.

The trust can choose not to allocate an asset to the general small business pool if the asset was first used, or installed ready for use, for a taxable purpose before 1 July 2001. A trust making this choice would depreciate such assets under the normal uniform capital allowance (UCA) rules.

Calculate the opening pool balance for the general small business pool by adding the value of all depreciating assets allocated to the pool.

Calculate the deduction for the general small business pool as follows:

> General small business pool deduction = opening pool balance ($) X 30%

If necessary, make a reasonable apportionment for the general small business pool deduction between primary production and non-primary production activities.

Write the result of the general small business pool deduction at (b) in table 4.

If either pool balance (after taking into account additions and disposals but before calculating the deductions in steps 2, 3 and 4) is less than $6,500, calculate the deduction for the pool using step 6(b).

Step 3
Depreciating assets other than eligible motor vehicles first used for a taxable purpose during the income year and cost addition amounts for assets already allocated to a pool

Calculate the deduction at half the general small business pool rate for:
- depreciating assets that the trust first used or installed ready for use for a taxable purpose during the year, and
- cost addition amounts for assets already allocated to the pool.

Calculate the deduction for the income year as follows:
- the taxable purpose proportion of the adjustable value of each depreciating asset first used for a taxable purpose this year X 15% for general small business pool assets, plus
- the taxable purpose proportion of cost addition amounts X 15% for the general small business pool assets.

Write the total deduction for general small business pool assets at (c) in table 4.

If the pool balance (after taking into account additions and disposals but before calculating the deductions in steps 2, 3 and 4) is less than $6,500, calculate the deduction for these assets using step 6(b).

Step 4
Special depreciation rules for eligible motor vehicles

From the 2012–13 income year, small businesses can claim up to $5,000 as an immediate deduction for an eligible motor vehicle they started to hold in 2012–13 and used, or installed ready for use, for a taxable purpose.

An eligible vehicle is generally a motor powered road vehicle (including four wheel drive vehicles), but excludes road vehicles that are not used on public roads, or only travel on public roads as a secondary function to their main use (for example, earthmoving equipment, tractors, graders etc). Eligible motor vehicles include cars, trucks, vans and utilities.

An eligible motor vehicle can be purchased new or second-hand.

(a) Low-cost motor vehicles

For motor vehicles costing less than $6,500, an immediate deduction is available as per Step 1 above and the special motor vehicle depreciation rules do not apply.

(b) Adjustable value of the motor vehicle is more than $5,000

Each eligible motor vehicle subject to the special depreciation rules must be allocated to the general small business pool. Where the taxable purpose proportion of the adjustable value of an eligible motor vehicle is more than $5,000, the deduction for the start year is:

> $5,000 + 15%((the taxable purpose proportion x the adjustable value of the motor vehicle) – $5,000)

Add up the deduction for each eligible motor vehicle and write the total at (d) in table 4.

(c) Adjustable value of the motor vehicle is less than $5,000

If the taxable purpose proportion of the adjustable value of an eligible motor vehicle is $5,000 or less, the deduction at the start year is that amount. Include this amount at (d) in table 4.

Where a motor vehicle is allocated to a small business pool, with a balance (after taking into account additions and disposals but before calculating the deductions in steps 2, 3 and 4) below $6,500, calculate the trust's deduction for these assets using step 6(b). The deductions for the motor vehicle is included in this deduction for the general small business pool and no further deductions are available under the special depreciation rules for eligible motor vehicles.

Step 5
Other depreciating assets

Calculate the deduction for the decline in value of all other depreciating assets that are not included in steps 1 to 4, for more information see appendix 6 and the Guide to depreciating assets 2013. Write the total deduction at (e) in table 4.

Step 6
Disposal of depreciating assets

(a) Certain assets (costing less than $6,500) and low-cost assets in previous years

If the trust has disposed of a depreciating asset (costing less than $6,500) for which it has claimed an immediate deduction under step 1 this year and/or a low-cost asset for which it has claimed an immediate deduction in a prior year, include the taxable purpose proportion of the termination value at **Reconciliation items** item **5,** see worksheet 1. For example, for a low-cost asset used only 50% for an income-producing purpose, which was sold for $200 (excluding GST), only $100 will be assessable and included as a reconciliation adjustment.

(b) Assets allocated to the general small business pool

If the trust disposes of depreciating assets allocated to the general small business pool, the taxable purpose proportion of the termination value is deducted from the closing pool balance. For example, for a pooled depreciating asset used only 50% for an income-producing purpose, which was sold for $3,000 (excluding GST), only $1,500 will be deducted from the closing pool balance.

If the balance of the pool (after taking into account any additions and disposals but before calculating the deductions in steps 2, 3 and 4) is less than $6,500 but more than zero, the trust can claim an immediate deduction for this amount. Write this deduction against general small business pool at (b) in table 4.

If the closing pool balance is less than zero, the amount below zero is included in assessable income at **Reconciliation items item 5**, see worksheet 1. For more information about closing pool balances, see Closing pool balance.

If expenses are incurred in disposing of a depreciating asset these expenses may be taken into account in step 3.

(c) Other depreciating assets

See the Guide to depreciating assets 2013 for information on how to calculate any balancing adjustment amounts on the disposal of other depreciating assets.

Include balancing adjustment amounts at **Reconciliation items** item **5**, see worksheet 1.

Table 4: Depreciation deductions (small business entities only)			
	Primary production **($)**	Non-primary production **($)**	Total **($)**
Certain assets (costing less than $6,500)			(a)
General small business pool			(b)
General small business pool (1/2 rate)			(c)
Deduction for eligible motor vehicles			(d)
Other assets			(e)
Depreciation expenses. Add up the amounts from (a) to (e).			(f)
Transfer the amount at (f) to depreciation expenses **K** item **5**.			
Transfer the amount at (a) to **A** item **49**.			
Transfer the total of the amounts at (b), (c) and (d) to **B** item **49**.			

Closing pool balance

The closing balance of the general small business pool for an income year is:

- the opening pool balance (see step 2), **plus**
- the taxable purpose proportion of the adjustable value of assets that were first used, or installed ready for use, for a taxable purpose during the year (see step 3), **plus**
- the taxable purpose proportion of cost addition amounts for assets in the pool during the year (see step 3), **less**
- the taxable purpose proportion of the termination value of any pooled assets disposed of during the year (see step 6(b)), **less**
- the general small business pool deduction (see step 2), **less**
- the deduction for assets first used by the taxpayer during the year (see step 3), **less**
- the deduction for any eligible motor vehicle (see step 4), **less**
- the deduction for cost addition amounts for pooled assets during the year (see step 3).

If the closing pool balance is less than zero, see step 6(b).

The closing pool balance for this year becomes the opening pool balance for the next income year, except if an adjustment is made to reflect the changed business use of a pooled asset.

The closing pool balance is needed to work out the pool deduction next year. Do not write the closing pool balance on the tax return.

Five-year restriction

If the trust is a small business entity and has chosen to use these simplified depreciation rules but then, in a later year, it chooses to stop using this concession, the trust cannot again choose to use the simplified depreciation rules until at least five years after the income year in which it chose to stop using the rules.

Motor vehicle expenses

Show at **L** motor vehicle running expenses only. These expenses include fuel, repairs, registration fees and insurance premiums. They do not include the following expenses shown at:

- **G Lease expenses**
- **I Total interest expenses**
- **K Depreciation expenses**.

Repairs and maintenance

Show at **M** the expenditure on repairs and maintenance of plant, machinery, implements and premises.

Write back any non-deductible expenditure, such as items of a capital nature or amounts relating to private use of an item shown at **M**, at **B Expense reconciliation adjustments**. The following information will help you work out whether you should make an expense reconciliation adjustment.

Repairs

As long as it is not expenditure of a capital nature, you may deduct the cost of repairs to property, plant, machinery or equipment used solely for producing assessable income or in carrying on a business. You can only deduct expenditure on repairs to property used partially for business or income-producing purposes (for example, if the property is used for private purposes or in the production of exempt income) to an extent that is reasonable in the circumstances.

If items are newly acquired, including items acquired by way of a legacy or gift, the cost of remedying defects in existence at the time of acquisition is generally of a capital nature. Expenditure incurred in making alterations, additions or improvements is of a capital nature and is not deductible.

For more information on deductions for repairs, see TR 97/23 *Income tax: deductions for repairs*.

Record keeping

To support any claim for repairs, keep source records showing full details of the nature and cost of repairs to each item.

All other expenses

Show at **N** the total of all other business expenses for the income year that has not already been included at **P** to **M,** for example, travel expenses.

- Write back capital and other non-deductible items included at **N** at **B Expense reconciliation adjustments**.

- If you have included an amount for a loss on the sale of a depreciating asset at **N**, see appendix 6.
- The calculation of some deductions may be affected by the commercial debt forgiveness provisions, see appendix 4.
- Expenses listed here that are costs associated with borrowing and servicing debt may not be allowable under the thin capitalisation rules, see appendix 3. Include the non-deductible amount at **B Expense reconciliation adjustments**.
- If what you show at **N** includes an amount that is brought to account under the TOFA rules, also complete item **31 Taxation of financial arrangements (TOFA)**.

For more information, see Guide to the taxation of financial arrangements (TOFA) rules.

Total expenses

Show at **O** the total of all expense items shown at **P** to **N**.

If there is a negative amount at **E Cost of sales**, which exceeds the total of all other expenses, print **L** in the box at the right of the amount.

Reconciliation items

The reconciliation adjustments reconcile operating profit or loss as shown in the profit or loss account (the accounts) with the trust's net income or loss from business for income tax purposes.

If the trust has included any amounts such as exempt income or non-deductible expenses in the accounts, or has not included amounts which are assessable income or expenditure that is deductible, work out the reconciliation adjustments.

Income reconciliation adjustments

Show at **A** the net income-related reconciliation adjustments. The amounts included here fall into two classes, which either increase or reduce the net adjustment:

- **income add backs** are amounts not shown in the accounts, but are assessable income, including timing adjustments. These items increase the total shown at **A**. Examples include:
  - any excess of the tax value of closing stock over the tax value of opening stock (other than small business entities using the simplified trading stock rules)
  - assessable balancing adjustment amounts on depreciating assets, see appendix 6
  - limited recourse debt amounts, see appendix 6
  - other assessable income not included in the accounts, small business entities should see appendix 6
- **income subtractions** are income items shown in the accounts, which are not assessable income, including timing adjustments. These items reduce the total shown at **A**. Examples include:
  - exempt income, including income exempt from Australian tax under a double-tax treaty
  - profit on the sale of a depreciating asset, see appendix 6

    - personal services income (PSI) included in the assessable income of an individual (attributed amount), see item 30 Personal services income
    - other income shown in the accounts which is not assessable for income tax purposes – former STS taxpayers should see below.

To calculate the net amount of the income-reconciliation adjustments, see worksheet 1.

If the **income subtractions** exceed the **income add backs**, the total is a negative amount. Print **L** in the box at the right of the amounts shown at **A**.

Expense reconciliation adjustments

Show at **B** the net expense related reconciliation adjustments. The amounts included here fall into two classes that either increase or reduce the net adjustment:

- **expense add backs** are expenses shown in the accounts, which are either not tax deductible or are only partly tax deductible, including timing adjustments. These items increase the total shown at **B**. Examples include
    - additions to provisions and reserves
    - capital expenditure
    - certain expenses relating to personal services income that are not deductible, see item 30 Personal services income
    - debt deductions denied by the thin capitalisation provisions, see appendix 3
    - depreciation expenses*
    - expenses relating to exempt income, including expenses relating to tax treaty exempt income
    - hire-purchase payments, see appendix 6
    - income tax expense
    - loss on the sale of a depreciating asset
    - luxury car lease payments
    - part of prepaid expenses not deductible this year
    - penalties and fines
    - other non-deductible expenses – former STS taxpayers should see below.

  * Only add back amounts of depreciation expenses if the trust is not a small business entity using the simplified depreciation rules. However, exclude any small business pool deductions shown at **K Depreciation expenses**.
- **expense subtractions** are amounts not shown as expenses in the accounts but are tax deductible, including timing adjustments. These items reduce the total amount shown at **B**. Examples include
    - any excess of the tax value of opening stock over the tax value of closing stock
    - any expenditure incurred under Subdivision 40-J of the ITAA 1997 to establish trees in carbon sink forests
    - deductible balancing adjustment amounts on depreciating assets, see appendix 6
    - deduction for decline in value of depreciating assets (other than trusts using the small business entity depreciation rules), see appendix 6
    - deduction for environmental protection expenses, see appendix 6
    - deduction for project pool, see appendix 6
    - deduction for electricity connections and telephone lines, see appendix 6
    - hire purchase agreements, interest component, see appendix 6
    - deductions for landcare operations, see appendix 6
    - luxury car leases, accrual amount, see appendix 6
    - part of prepaid expenses deductible this year, but not shown in accounts
    - section 40–880 deduction, see appendix 6

- other deductible items – former STS taxpayers should see below.

If the **expense subtractions** exceed the **expense add backs**, the total is a negative amount. Print **L** in the box at the right of the amount.

To calculate the net amount of the expense reconciliation adjustments, see worksheet 1.

Specific reconciliation adjustments

Former STS taxpayers

If the trust is eligible and is continuing to use the STS accounting method, you may need to make additional adjustments, see appendix 14.

You will need to make adjustments at **Reconciliation items** item **5** if the trust:

- uses the STS accounting method, and the amounts shown at item **5 Income** and **Expenses** are not based on the STS accounting method, or
- stops using the STS accounting method.

These adjustments are explained in more detail below, worksheet 1 will help with the calculations.

Trade debtors and creditors as at 30 June 2013

If the trust is eligible, has chosen to continue using the STS accounting method and has included, as income at item **5**, amounts of ordinary income that have been derived but not received in 2012–13, the amounts not received (for example, trade debtors at 30 June 2013) are not assessable in 2012–13.

Show these amounts as income subtractions at **A Income reconciliation adjustments**.

If the trust is eligible, has chosen to continue using the STS accounting method and has included, as expenses at item **5**, amounts of general deductions, repairs or tax-related expenses that have been incurred but not paid in 2012–13, then the amounts not paid (for example, trade creditors at 30 June 2013) are not deductible in 2012–13.

Show these amounts as expense add-backs at **B Expense reconciliation adjustments**.

Adjustments when ceasing to use the STS accounting method

If the trust has discontinued using the STS accounting method and changed to an accruals accounting method this year, read below.

If the trust has previously not included, as income at item **5**, amounts of ordinary income that were derived but not received while using the STS accounting method (for example, trade debtors at 30 June 2012) these amounts are assessable this year.

Show these amounts as income add backs at **A Income reconciliation adjustments**.

If the trust has previously not included as expenses at item **5**, amounts of general deductions, repairs or tax-related expenses that were incurred but not paid while using the STS accounting method (for example, trade creditors at 30 June 2012) these amounts are deductible this year.

Show these amounts as expense subtractions at **B Expense reconciliation adjustments** unless they are tax-related expenses – include the deduction for tax-related expenses at item **18**.

Disposal of depreciating assets

If the trust has disposed of depreciating assets during the income year, the following amounts (if any) are income add backs at **A Income reconciliation adjustments**:

- taxable purpose proportion of the termination value of low-cost assets disposed of for which an immediate deduction has been claimed
- if the closing pool balance of a small business pool is less than zero, the amount below zero, and
- assessable balancing adjustment amounts on the disposal of depreciating assets not subject to the small business entity depreciation rules.

Show any deductible balancing adjustment amounts on the disposal of depreciating assets not subject to the small business entity depreciation rules as expense subtractions at **B Expense reconciliation adjustments**.

Prepaid expenses (immediate deduction)

Small business entities are entitled to an immediate deduction for prepaid expenses if the expenditure is incurred for a period of service not exceeding 12 months and the eligible service period ends on or before the last day of the next year of income. If the eligible service period is more than 12 months, or ends after the next year of income, you must apportion the deduction for the expenditure over the eligible service period or 10 years, whichever is less.

For more information, see Deductions for prepaid expenses 2013. If expense amounts include prepaid expenses that differ from the amounts allowable as deductions in the 2012–13 income year, make the reconciliation adjustment at **B Expense reconciliation adjustments**.

Prepaid expenses (apportionment)

The trust's total deduction for prepaid expenses in the 2012–13 income year may comprise two components:

- the part of prepaid expenses incurred in the 2012–13 income year that relates to that income year, and
- that part of the 2011–12 or earlier income year's expenses was not deductible in that income year, but is deductible in the 2012–13 income year under the prepayment rules.

For more information, see Deductions for prepaid expenses 2013.

If expense amounts include prepaid expenses differ from the amounts allowable as deductions in the 2012–13 income year, make the reconciliation adjustment at **B Expense reconciliation adjustments**.

Trading stock on hand (other than small business entities using the simplified trading stock rules)

Reconciliation adjustments will be required where the tax values of trading stock on hand have not been used in calculating the amount shown at **E Cost of sales** item **5**. Any excess of the tax value of closing stock over the tax value of opening stock would be an income add back. Any excess of the tax value of opening stock over the tax value of closing stock would be an expense subtraction. If you have used accounting values for trading stock on hand in calculating the amount shown at **E Cost of sales**, you will need to take further reconciliation adjustments from those amounts.

For more information on the tax value of trading stock, see item 38 Opening stock and item 40 Closing stock.

Taxation of financial arrangements (TOFA)

If what you show at **A Income reconciliation adjustments** or **B Expense reconciliation adjustments** includes an amount that is brought to account under the TOFA rules, also complete item **31 Taxation of financial arrangements (TOFA)**.

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For more information, see Guide to the taxation of financial arrangements (TOFA) rules.

Net income or loss from business

The trust's net income or loss from business is the amount of the trust's net income or loss for tax purposes that is from business. It is the total business income less total expenses incurred in producing that income according to the accounting systems, adjusted by any tax reconciliation items.

Show the net income or loss from business at:
- **Q** for primary production, and
- **R** for non-primary production.

If the amount at **Q** or **R** is a loss, print **L** in the box at the right of the amount.

Show at **S**:
- Total business income, **minus**
- **O Total expenses**, **plus** or **minus**
- **A Income reconciliation adjustments** and **B Expense reconciliation adjustments**.

The amount shown at **S** equals the sum of the net income or loss from business at:
- **Q** for primary production, and
- **R** for non-primary production.

If the amount at **S** is an overall loss, print **L** in the box at the right of the amount.

6 Tax withheld

Tax withheld where ABN not quoted

Show at **T** the total of amounts withheld from income subject to withholding where an ABN was not quoted. This amount equals the sum of the amounts shown in the tax withheld boxes on the *Non-individual PAYG payment summary schedule 2013*.

For instructions on completing the schedule, see Non-individual PAYG payment summary schedule 2013.

Do not include any share of amounts withheld that is a distribution from another trust or partnership where an ABN was not quoted. Show this at **C** item **8**.

If you show an amount of tax withheld at **T** item **6** then declare the corresponding gross income at **C** and **D Gross payments where ABN not quoted** item **5**, as appropriate.

Credit for tax withheld – foreign resident withholding

Show at **U** the total amount of tax withheld from payments subject to foreign resident withholding. Do not include any share of foreign resident withholding credits distributed to the trust from other trusts or partnerships.

Complete this entry only if the trust is a non-resident trust and the amount was withheld in Australia and remitted to the ATO.

If a credit is claimed at **U** for tax withheld under foreign resident withholding, you must show the corresponding gross payments subject to foreign resident withholding at **B** item **5**.

7 Credit for interest on early payments – amount of interest

Show at **W** only the calculated interest amount of 50 cents or more for early payment – do not show actual payments.

Early payment interest is payable only where the tax is actually paid more than 14 days before the due date for payment. Amounts that may attract early payment interest include payments of:
- income tax (including Medicare levy)
- a shortfall interest charge.

Amounts that are not directly paid but are reduced by the crediting or applying of an amount do not attract early payment interest. These amounts include:
- credit for instalments payable under the PAYG instalment regime
- credit for amounts withheld from withholding payments under the PAYG withholding regime
- an overpayment of other income tax liabilities
- a running balance account (RBA) surplus
- any other credit entitlement arising under a taxation law.

Early payment interest is also not payable on:
- any component of the payment that exceeds the amount due
- an amount for any period during which that amount also attracts interest on overpayment.

For taxable trusts, early payment interest is calculated from the later of:
- the date of issue of the notice notifying the amount of tax or interest, or
- the date the early payment is made.

Interest is payable up to the due date for payment, but only on the amount of payment up to the value of the debt.

However, where an amount that is paid early is refunded before the day it becomes due and payable, interest does not accrue on the amount for any period after the day it is refunded.

Date of payment is the date:
- shown on the receipt from the ATO or post office, or
- the payment is posted to us, plus three days, or
- shown on the taxpayer's bank statement where payment is made through direct debit – that is, electronic funds transfer (EFT).

Table 5 Interest rates for early payments calculation	
Period	**Interest rate (p.a.)**
1 July 2012 to 30 September 2012	3.66
1 October 2012 to 31 December 2012	3.62
1 January 2013 to 31 March 2013	3.24
1 April 2013 to 30 June 2013	2.95

If the early payment extends over two or more interest periods, calculate the interest for the number of days in each period.

Interest is calculated as follows:

Interest **=**
(number of days/365 *) **x** amount of payment **x** interest rate for period

* 366 for a leap year.

Keep a record of the amount of early payment interest claimed – this interest is assessable as income in the income year it is paid or credited against another liability.

8 Partnerships and trusts

The trust's income from a partnership includes income or a loss that the trust received, was entitled to receive or was entitled to deduct in respect of that partnership.

The trust's income from other trusts includes the trust's share of the net income (for tax purposes) of the other trusts, which generally corresponds to the percentage share of the other trust's distributable income that the trust received or was entitled to receive as a beneficiary under a will, settlement, and deed of gift or other instrument of trust.

Distributions from partnerships or shares of the net income of other trusts may include or be attributable to the partnership or trust's share of any:
- TFN amounts withheld from interest, dividends and unit trust distributions
- franking credits attached to franked dividends received indirectly from an Australian franking company
- amounts withheld where an ABN was not quoted.

Copy the details from any statements of distribution or advice received from the partnerships and other trusts to new worksheet 2. This is the trust's record if we need more details later.

If the partnership or trust statement of distribution or advice includes an amount described as dividends or franking credits from a New Zealand franking company, do not include these at item 8 – show these amounts at item **23 Other assessable foreign source income**.

Do not include any payments and loans received from trustees or amounts that are debts forgiven by trustees that are treated as dividends under Division 7A of the ITAA 1936 – show these amounts at **K** item **12**.

If partnership or trust statement of distribution or advice includes amounts described as foreign income or capital gains, do not include these at item **8**. Show foreign income at item:
- **22 Attributed foreign income**, or
- **23 Other assessable foreign source income**.

Show net capital gains (including foreign capital gains) at item **21 Capital gains**. Dividends received from listed investment companies are not distributions of net capital gains: for more information, see the Guide to capital gains tax 2013.

To the extent that family trust distribution tax (FTDT) has been paid on income or capital to which the trust is presently entitled or has been distributed from or received from a partnership or other trust, an amount is excluded from the assessable income of the trust under section 271-105 of Schedule 2F to the ITAA 1936.

For more information about the circumstances in which FTDT is payable, see Family trust distribution tax.

If the trust receives or is presently entitled to a share of income which includes an amount, received indirectly from a closely held trust, on which trustee beneficiary non-disclosure tax (TBNT) has been paid, you do not need to include the amount in the trust's assessable income.

Any losses or outgoings incurred in deriving an amount that is excluded from assessable income because FTDT or TBNT has been paid are not deductible. The trust cannot claim a tax offset for any franking credits attributable to the whole or a part of a dividend that is excluded from assessable income under these provisions.

Primary production

Distribution from partnerships

Show at **A** the amount of primary production income or loss distribution from partnerships.

If this amount is a loss, print **L** in the box at the right of the amount.

Share of net income from trusts

Show at **Z** the trust's share of primary production income which has been included in the net income (for tax purposes) of other trusts. The statement of distribution or advice from the other trusts(s) should separately show this amount. This amount should include the trust's share of primary production income which has been included in the net income of other trusts where the trust became presently entitled to primary production income of other trusts in the income year but has not yet received it.

If the trust's share of primary production income included in the net income of other trusts is zero because the other trust has made a loss from its primary production activities, print **L** in the box at the right of the amount. Show a loss at **Z** only if it is a component of an overall distribution of net income from the same trust.

If this amount is not a loss, in the box at the right of **Z** print the code from table 1 that best describes the type of trust from which the distribution is made. If this amount is from more than one type of trust, print the code that represents the trust with the greatest amount of distribution.

Deductions relating to amounts shown at A and Z

Show at **S** the trust's deductions for its own expenses relating to primary production distributions from partnerships. Also show at **S** the trust's deductions for its own expenses in deriving its share of primary production income which has been included in the net income (for tax purposes) of other trusts. Note that expenses incurred on behalf of those other trusts are not able to be deducted by the trust.

If you have prepaid any expenses, the amount that you can claim at **S** may be affected by the prepayment provisions, for more information see Deductions for prepaid expenses 2013.

Expenses listed here that are costs associated with borrowing and servicing debt may not be allowable deductions under the thin capitalisation rules, for more information, see appendix 3. The disallowed amount reduces the amount that would otherwise be included at **S**.

Net primary production amount

Show here the net result of adding the trust's partnership distributions of primary production income and the trust's share of primary production income that has been included in the net income (for tax purposes) of other trusts less allowable deductions related to that income.

Write the total amount in the box at **Net primary production amount**. If this amount is a loss, print **L** in the box at the right of the amount.

Non-primary production

Distribution from partnerships, less foreign income

Show at **B** the amount of non-primary production income or loss from partnerships – include any share of credit for tax withheld in Australia due to foreign resident withholding that is attached to the distribution. (Also include the share of credit at **U** item **8**).

If the amount at **B** is a loss, print **L** in the box at the right of the amount.

If the distribution includes franked dividends from a franking entity, check the statement of distribution or advice detailing the distribution to ensure that the amounts to be included here represent both the trust's share of the franked dividend and its share of the franking credit attached to the franked dividend. The franking credit is also included at **D** item **8**. Franked distributions received from a partnership are shown at **B** and not at **F** item **8**.

Do not show any dividends or franking credits indirectly received attributable to distributions from a New Zealand franking company here. If the trust received dividends or franking credits indirectly from a New Zealand franking company, see item 23 Other assessable foreign source income.

If the trust received a distribution from a partnership and that partnership advised that it claimed a deduction in respect of a listed investment company (LIC) capital gain amount, the trust is required to include its share of the deduction allowed to the partnership at item **14 Other Australian income**.

Share of net income from trusts, less capital gains, foreign income and franked distributions

Show at **R** the trust's share of the non-primary production income, which was included in the net income (for tax purposes) of other trusts. The statement of distribution or advice from the other trusts should separately show this amount. Include any share of credit for tax withheld in Australia due to foreign resident withholding that is attached to the distribution. (Also include the share of credit for tax withheld from foreign resident withholding at **U** item **8**.)

The trust's franked distributions from trusts and its share of the franking credits referrable to those franked distributions (the franking credit 'gross-up') are no longer included at the amount shown at **R**. These amounts are now included at **F**. See Franked distributions from trusts for further instructions on this amount. However, these amounts are still relevant to working out whether the overall share of net income (for tax purposes) from non-primary production activities is a positive amount. Unfranked distributions are still shown at **R**.

In working out the trust's share of non-primary production income included in the net income (for tax purposes) of other trusts, amounts to which the trust became presently entitled in the income year but has not yet received should also be taken into account.

Although for tax purposes a trust cannot distribute a loss, in certain circumstances a trust may have made a loss in relation to its non-primary production activities and yet still have a positive amount of net income because its share of primary production income included in the net income for tax purposes is positive. In these circumstances, for the purposes of certain provisions relating to primary producers, it may be necessary to identify where the trust's share of net income from another trust related to non-primary production activities is a loss, and record this at **R**.

If the trust's share of non-primary production income which was included in the net income (for tax purposes) of another trust is a loss, print **L** in the box at the right of the amount. Show a loss at **R** only if the amount is a component of an overall distribution of net income from the same trust. The loss at **R** should be adjusted for any amounts shown at **F** and **G** relating to franked distributions from trusts.

If this amount is not a loss, in the box at the right of **R** print the code from table 1 that best describes the type of trust from which the distribution is made. If this amount is from more than one type of trust, print the code that represents the trust with the greatest amount of distribution.

Deductions relating to amounts shown at B and R

Show at **T** the trust’s deductions for its own expenses relating to non-primary production distributions from partnerships, except those deductions which are directly related to the earning of franked distributions from trusts which are shown at **G**. Also show at **T** the trust's own expenses incurred in deriving its share of non-primary production income which has been included in the net income (for tax purposes) of other trusts. Note that expenses incurred on behalf of those other trusts are not able to be deducted by the trust.

If any expenses have been prepaid, the amount that you can claim at **T** may be affected by the prepayment provisions, for more information, see Deductions for prepaid expenses 2013.

Expenses listed here (and where relevant at **G** relating to franked distributions from trusts) that are costs associated with borrowing and servicing debt may not be allowable deductions under the thin capitalisation rules, for more information, see appendix 3. The disallowed amount reduces the amount that would otherwise go at **T** or where relevant **G**.

If FTDT has been paid on income or capital of another trust or partnership that the trust is entitled or which has been distributed to the trust, an amount is excluded from the trust's assessable income under section 271-105 of Schedule 2F of the ITAA 1936. Do not show this at **A**, **Z**, **B**, **R** or **F**. You cannot claim a deduction for any losses or outgoings incurred in deriving an amount that is excluded from assessable income at **S**, **T** or **G**, for more information about the circumstances in which FTDT is payable, see Family trust distribution tax.

If trustee beneficiary non-disclosure tax (TBNT) has been paid in respect of an amount that would otherwise be assessable to the trust, that amount is excluded from the assessable income of the trust. Do not show that income at **A**, **Z**, **B**, **R** or **F**. You cannot claim a deduction for any losses or outgoings incurred in deriving an amount which is excluded from assessable income at **S**, **T** or **G**.

Franked distributions from trusts

A franked distribution is a distribution that has a franking credit attached to it and includes both fully and partially franked distributions. If the trust's share of the non-primary production income included in the net income of other trusts includes an amount described as franked dividends, franked distributions or attributable franked distributions, check the statement of distribution or advice detailing the distribution to ensure that the amounts to be included at this entry represent both the trust’s share of the franked distribution and its share of the franking credit attached to the franked distribution (the franking credit 'gross-up').

Show at **F** the trust's share of the franked distribution (described as franked dividends, franked distributions or attributable franked distributions), plus its share of the franking credit attached to the franked distribution. The franking credit is also included at **D** item **8**. Unfranked distributions are shown at **R** item **8**.

Do not show any share of another trust's non-primary production income included in the net income of that other trust that includes any dividends or franking credits indirectly received which were attributable to distributions from a New Zealand franking company at this entry, instead, see item 23 Other assessable foreign source income.

If the trust received, or was entitled to receive, income from another trust, and that income included a franked distribution (dividend) paid by a listed investment company (LIC), the total franked distribution should be shown at **F**.

If the trust received, or was entitled to receive, income from another trust, and that trust advised that it claimed a deduction in respect of a LIC capital gain amount, the trust is required to include an amount equal to its share of the deduction allowed to the trust at item **14 Other Australian income**.

Deductions relating to franked distributions from trusts in Label F

Show at **G** the trust's deductions for its own expenses incurred in deriving its share of the franked distributions from trusts at label **F**. The amount of deductions which can be claimed at **G** may be also be limited in circumstances such as those described above, for example by the prepayment and thin capitalisation rules, or because an amount shown at **F** was excluded from the trust's assessable income.

Net non-primary production amount

Show at this entry the net result of adding the partnership distributions of non-primary production income and the trust's share of non-primary production income included in the net income (for tax purposes) of other trusts, less deductions related to that income, plus the net amount of the franked distributions from trusts, less the deductions relating to the franked distributions from trusts.

Write the total amount in the box at **Net non-primary production amount –** if this amount is a loss, print **L** in the box at the right of the amount.

Share of credits from income

Share of credit for tax withheld where ABN not quoted

If the income shown at **A**, **Z**, **B**, **R** or **F** includes any share of amounts that have had tax withheld where an ABN was not quoted, show any share of credit for the tax withheld at **C**. The trust or partnership statement or distribution or advice should separately disclose this amount.

Share of franking credits from franked distributions

Show at **D** the trust's share of any franking credits from a franking entity received indirectly through a partnership or other trust.

Show franking credits received directly from a paying franking entity at **M** item **12**.

Do not show franking credits relating to a franked dividend received indirectly through a partnership or other trust if any of the following apply:
- They were attributable to a distribution from a New Zealand franking company. If the trust received franking credits indirectly from a New Zealand franking company, see item 23 Other assessable foreign source income.
- The holding period rule and related payments rule were not satisfied in relation to the dividend, for more information, see appendix 1.

- FTDT has been paid on the dividend paid or credited by a company that has made an interposed entity election. The dividend is excluded from assessable income under section 271-105 of Schedule 2F to the ITAA 1936. A franking credit or tax offset cannot be claimed for any franking credit attached to that dividend, for more information about when FTDT is payable, see Family trust distribution tax.
- Trustee beneficiary non-disclosure tax has been paid in respect of the dividend. A franking credit or tax offset cannot be claimed for any franking credit attached to that dividend.

Share of credit for TFN amounts withheld from interest, dividends and unit trust distributions

Unless an entity claimed an exemption or quoted a TFN, an investment body may withhold amounts from interest, dividends or income of a unit trust to which a beneficiary is presently entitled – these are called 'TFN amounts withheld'. The current rate is 46.5% of the payment made.

Show at **E** the trust's share of any credit for TFN amounts withheld from amounts of interest, dividends and income of unit trusts to which a beneficiary is presently entitled that are received from partnerships or other trusts. Credits for TFN amounts withheld are allowed in the assessments of the beneficiaries or trustees.

Credit for TFN amounts withheld from payments from closely held trusts

Where a beneficiary of a closely held trust does not provide their TFN to the trustee, the trustee may be required to withhold from payments or distributions.

Show at **O** any amounts withheld by a trustee of a closely held trust because a TFN was not provided.

Share of credit for tax withheld from foreign resident withholding

Amounts may be withheld in Australia from some payments made to certain partnerships or trusts due to the operation of the foreign resident withholding measure. These payments relate to entertainment, sports activities, construction, related activities and casino gaming junket activities.

Show at **U** the trust's share of any foreign resident withholding credits received from partnerships or other trusts. Ensure this amount is included in the gross distribution amount shown at **B Distribution from partnerships, less foreign income** or **R Share of net income from trusts, less capital gains, foreign income and franked distributions**.

Taxation of financial arrangements (TOFA)

Even if the TOFA rules apply to the trust, show at item **8 Partnerships and trusts** the trust's share of all primary production and non-primary production income distributed from partnerships or included in the net income (for tax purposes) of other trusts and deductions relating to such amounts – this includes amounts from financial arrangements subject to TOFA rules.

If what you show at item **8 Partnerships and trusts** includes an amount that is brought to account under the TOFA rules, also complete item **31 Taxation of financial arrangements (TOFA)**.

For more information, see Guide to the taxation of financial arrangements (TOFA) rules.

9 Rent

Former STS taxpayers still using the STS accounting method

If the trust is eligible and has chosen to continue using the STS accounting method, base the gross rent at **F**, interest deductions at **G**, and general deductions and repairs included at **H** on the STS accounting method, for more information, see appendix 14.

Small business entities

Depreciating assets used in rental properties are generally excluded from the small business entity depreciation rules on the basis the assets are part of property that is subject to a depreciating asset lease. For more information see Concessions for small business entities (NAT 71874).

If the sole reason you derived income jointly (or in common) with another person was that you were a part owner of a property available for rent, but you were not in a trust carrying on a business of renting out properties, do not show any income or deductions from that rental property **at this item**. Show your share of the income or deductions at item **21 Rent** of your *Tax return for individuals (supplementary section) 2013* or the relevant items of the company, trust or fund tax return or the self managed superannuation fund annual return.

For more information to help you work out whether you are carrying on a business, see TR 97/11 *Income tax: am I carrying on a business of primary production?*

Gross rent

Show at **F** the gross amount of rental income – this item cannot be a loss.

Rental income includes booking or letting fees, bond monies if the trust becomes entitled to retain them, any insurance payouts that compensate for lost or forgone rent, and reimbursements from tenants of deductible expenses incurred.

If the trust is registered for GST, and GST is payable in relation to rental income, exclude the GST from gross rent at **F**.

Show rent from foreign sources at item **23 Other assessable foreign source income**.

Lease premium received from a CGT event

A capital gain or a capital loss made from the receipt of a lease premium is shown at item **21 Capital gains**.

For more information about CGT events involving leases, see the Guide to capital gains tax 2013.

Interest deductions

If borrowed monies are used to finance a property investment, interest paid on the borrowing generally is deductible.

However, the thin capitalisation rules may apply to reduce interest deductions. These rules place a limit on the amount of interest and other borrowing costs that can be deducted for Australian tax purposes: for more information see appendix 3. The disallowed amount reduces the amount that would otherwise be included at **G**.

Even if the TOFA rules apply to the trust, show at **G** all interest expenses incurred on monies borrowed to finance a property: this includes interest expense from financial arrangements subject to the TOFA rules.

Show at **G** the total deductible amount of interest expense incurred in earning the rental income.

If what you show at **G** includes an amount which is brought to account under the TOFA rules, also complete item **31 Taxation of financial arrangements (TOFA)**.

For more information, see Guide to the taxation of financial arrangements (TOFA) rules.

Capital works deductions

Show at **X** the total capital works deductions amount for rental buildings only. For information on capital works deductions, see appendix 5.

Other rental deductions

Show at **H** the total of other deductible expenses incurred in earning rental income.

If the trust is registered for GST and GST is payable in relation to rental income, exclude any input tax credit entitlements that arise in relation to expenses from the amount shown at **H**.

Expenses listed here that are costs associated with borrowing and servicing debt may not be allowable deductions under the thin capitalisation rules, see appendix 3. The disallowed amount reduces the amount that would otherwise be shown at **H**.

Deductions for the decline in value of depreciating assets used to earn rental income are generally shown at **H**. However, if the trust has allocated some of these assets to a low-value pool, you may need to show deductions at **18 Other deductions,** see appendix 6.

Net rent

Show at this entry the net amount of any rent. If this amount is a loss, print **L** in the box at the right of the amount.

For more information, see Rental properties 2013 (NAT 1729).

Tax agents who lodge trust tax returns through ELS must complete the *Partnerships and trusts rental property schedule 2013* if item **9 Rent** is completed. You do not have to complete the schedule if you are lodging a paper version of the trust tax return.

10 Forestry managed investment scheme income

Definitions

A **forestry interest** in a forestry managed investment scheme (FMIS) is a right to benefits produced by the FMIS, whether the right is actual, prospective or contingent, and whether it is enforceable or not.

The **forestry manager** of an FMIS is the entity that manages, arranges or promotes the FMIS.

A trust is an **initial participant** in a FMIS if:

- it obtained its forestry interest in the FMIS from the forestry manager of the scheme, and
- its payment to obtain the forestry interest in an FMIS results in the establishment of trees.

A trust is a **subsequent participant** if it obtains an interest in a forestry managed investment scheme through secondary market trading. This means it acquired its interest other than as an initial participant, usually by purchasing that interest from an initial participant in the scheme.

The amount of the trust’s **total forestry scheme deductions** is the total of all the amounts it can deduct or has deducted for each income year it held its forestry interest. See item 17 Forestry managed investment scheme deduction for more information on amounts you can deduct.

The amount of the trust’s incidental forestry scheme receipts is the total of all the amounts it has received from the FMIS in each income year it held its forestry interest, other than amounts received because of a capital gains tax (CGT) event.

Write at **Q** item **10** the total income from the following activities for each FMIS in which the trust holds a forestry interest.

For an initial participant in an FMIS

Thinning receipts

If the trust received thinning proceeds from its forestry interest, include the actual amount received at **Q**.

Sale and harvest receipts – forestry interest no longer held

If the trust ceased holding its forestry interest as a result of a CGT event (because it sold its interest or it received harvest proceeds) – include the market value of the forestry interest at the time of the CGT event at **Q**.

Sale and harvest receipts – forestry interest still held

If a CGT event happened and the trust still held its forestry interest (because it sold part of its interest or there was a partial harvest) – include the amount by which the market value of the forestry interest was reduced at **Q**.

For a subsequent participant in an FMIS

Thinning receipts

If the trust received thinning proceeds from its forestry interest – include the actual amount received at **Q**.

Sale and harvest receipts – forestry interest no longer held

If the trust ceased holding its forestry interest as a result of a CGT event (because it sold its interest or it received harvest proceeds) – include at **Q** the lesser of the following two amounts:
- the market value of the forestry interest at the time of the CGT event, or
- the amount (if any) by which the total forestry scheme deductions exceeded the incidental forestry scheme receipts.

Sale and harvest receipts – forestry interest still held

If a CGT event happened and the trust still held its forestry interest (because it sold part of its interest or there was a partial harvest) work out the following two amounts:
- the market value of the forestry interest at the time of the CGT event, and
- the amount (if any) by which the total forestry scheme deductions exceeded the incidental forestry scheme receipts.

Use the lesser of the two amounts above in the following formula:

$$\text{amount worked out above} \times \frac{\text{the decrease (if any) in the market value of the forestry interest (as a result of the CGT event)}}{\text{the market value of the forestry interest just before the CGT event}}$$

Include at **Q** the amount calculated using the formula.

To complete this item

Add up all the amounts you worked out for the trust's FMIS income – write the total at **Q**.

See **examples 7** and **8** for how to calculate the amount you show at **Q**.

For more information on the CGT treatment of a trust's forestry interest, see Guide to capital gains tax 2013.

Example 7

> Cedar Trust is a subsequent participant in an FMIS. It sold its forestry interest at the market value of $20,000. The sale of the forestry interest is a CGT event. The original cost base was $14,000.
>
> In the time that Cedar Trust held the forestry interest, it claimed $4,000 in deductions (its total forestry scheme deductions) for lease fees, annual management fees and the cost of felling that it paid to the forestry manager. In the same period, it received $1,500 from thinning proceeds (its incidental forestry scheme receipts).
>
> Cedar Trust will need to include **$2,500** (that is, $4,000 – $1,500) at **Q**, because this amount is less than the market value of its forestry interest at the time of the CGT event.

Example 8

> Oakey Trust is a subsequent participant in an FMIS. It received harvest proceeds over two income years. It received the first harvest payment of $5,000 in the 2012–13 income year.
>
> The market value of its forestry interest was $20,000 just before it received its payment for the first harvest (which is a CGT event). After it received this first harvest payment, the market value of its forestry interest was reduced to $15,000. Its original cost base was $14,000.
>
> In the time that it held its interest, Oakey Trust claimed $4,000 in deductions (its total forestry scheme deductions) for lease fees, annual management fees and the cost of felling that it has paid to the forestry manager. In an earlier period, it received $1,500 from thinning proceeds (its incidental forestry scheme receipts).
>
> **Step 1** The market value of the forestry interest (at the time of the CGT event) is $20,000.
>
> The amount by which the total forestry scheme deductions exceed the incidental forestry scheme receipts is $2,500 (that is, $4,000 – $1,500).
>
> The amount to use in step 2 is $2,500.
>
> **Step 2** Using the formula above:

$$\$2,500 \quad X \quad \frac{\$5,000}{} \quad = \quad \$625$$

$20,000

Step 3 Oakey Trust will need to include **$625** at **Q**.

Step 4 Oakey Trust will need to include the remainder from step 2 of **$1,875** (that is, $2,500 – $625) at **Q** on its 2014 tax return.

11 Gross interest

Show at **J** the interest from banks and credit unions, building societies, debentures, notes and deposits, income accrued on discounted or deferred interest securities, government securities and interest paid by the ATO.

The total, which is the gross amount of interest received or credited, must be included in assessable income.

Even if the TOFA rules apply to the trust, show at **J** all interest received or credited – this includes interest from financial arrangements subject to the TOFA rules.

If what you show at **J** includes an amount which is brought to account under the TOFA rules, also complete item **31 Taxation of financial arrangements (TOFA)**.

For more information, see Guide to the taxation of financial arrangements (TOFA) rules.

If the trust has received or entitled to receive an amount described as interest from a cash management trust or other similar trust investment product include this at item **8 Partnerships and trusts**.

Copy details from all statements to worksheet 3. Keep the worksheet with your tax records.

Do not include non-share dividends received from holding a non-share equity interest. If the trust holds such an interest, the issuer is obliged to forward a dividend statement with details of the dividends, which should be shown at item **12 Dividends**.

For more information on non-share dividends and non-share equity interests see Debt and equity tests: guide to the debt and equity tests.

Discounted, deferred interest or capital-indexed securities

Show at **J** the appropriate amount of discount, interest or other gain which accrued this income year on a discounted, deferred interest or capital-indexed security.

Qualifying security rules

A discounted, deferred interest or capital-indexed security may be subject to the qualifying security rules in Division 16E of the ITAA 1936.

Those rules will only apply if the TOFA rules do not apply (see below). In addition, the security must be one that:

- was issued after 16 December 1984
- had a maturity date more than 12 months from the issue date, and
- the sum of all payments under the security (except periodic interest, for example, a coupon rate) exceeds its issue price by greater than 1.5%

Example 9

On 1 July, a zero-interest-discounted security is issued at $82.65, redeemable on 30 June after two years at a face value of $100. The investor holds the security until it matures. Where this security is not subject to TOFA, the investor is required to calculate the effective rate of interest for each six-month period – in this case, it is 4.88%.

The accrued amount included in the total income each income year is equal to the increase in value of the security in that year, as follows:

Table 6: Value of security

Value of security at:	Year 1 ($)	Year 2 ($)	
Beginning of year	82.65	90.91	(a)
Half-year	86.68	95.35	(b)
Increase	4.03	4.44	(b) – (a) = (c)
End of year	90.91	100.00	(d)
Increase	4.23	4.65	(d) – (b) = (f)
Increase for year	8.26	9.09	(c) + (f)

In the example, the six-monthly period falls at exactly half-year.

TFN amounts withheld from gross interest

Show at **I** any TFN amounts withheld from gross interest where a TFN has not been provided to the investment body.

Record keeping

Keep all documents issued by the investment body that detail payments of income and any TFN amounts withheld from those payments.

Do not attach these documents to the trust tax return; keep them with the trust's tax records.

We may check the amount shown at **J** with our own records to determine accuracy: see Information matching.

12 Dividends

If the trust is a shareholder or holder of a non-share equity interest in a company (including a LIC) or held units in a corporate unit trust or a public trading trust, that entity gives the trust a dividend (also referred to as a distribution) or non-share dividend statement. The statement is likely to include the:

- name of the entity making the distribution
- date on which the distribution was made
- amount of the distribution
- amount of franking credit allocated to the distribution
- franking percentage for the distribution
- amount of any withholding tax deducted from the distribution
- name of the shareholder, and
- if the distribution is unfranked, a statement to that effect, or
- if the distribution is franked, the franked amount and the unfranked amount of the distribution.

If a franked distribution has been received with an associated statement of distribution that does not distinguish between the franked and unfranked portions of the dividend, include the total dividend amount at **L Franked amount** and include any attached franking credits at **M Franking credit**.

Show only amounts received directly from Australian companies, corporate limited partnerships, corporate unit trusts and public trading trusts. Show dividends that are part of a distribution from a managed investment fund or other trust or partnership at item **8 Partnerships and trusts**. Show dividends received from foreign sources, including dividends from a New Zealand company with Australian franking credits attached, at item **23 Other assessable foreign source income**.

Copy details from all statements to worksheet 4, and keep the worksheet with the trust's tax records.

If the trust was paid a dividend by a LIC and the dividend advice statement shows a LIC capital gain amount, the trust can claim a deduction of 50% of the LIC capital gain amount at item **16 Deductions.**

Dividends on which family trust distribution or trustee beneficiary non-disclosure tax has been paid

To the extent that FTDT has been paid on a dividend paid or credited to the trust by a company that has made an interposed entity election, that amount is excluded from the assessable income of the trust under section 271-105 of Schedule 2F to the ITAA 1936. Do not show it at **K** or **L**.

You cannot claim a deduction for any losses or outgoings incurred in deriving an amount that is excluded from assessable income under section 271-105 and you cannot claim a credit or tax offset for any franking credit attached to the non-assessable non-exempt portion of the dividend.

Accordingly, do not include any amount at **M** for a franking credit attached to the whole or part of a dividend that is excluded under section 271-105. For more information about the circumstances in which FTDT is payable, see Family trust distribution tax.

If trustee beneficiary non-disclosure tax has been paid on a dividend that is included in a share of net income which the trust is presently entitled to or which has been distributed to the trust, then the dividend is not included in the assessable income of the trust.

You cannot claim a deduction for any losses or outgoings incurred in deriving these amounts that is excluded from assessable income and you cannot claim a tax offset for any franking credits attributable to the dividend.

For more information on dividends, franking credits and tax offset entitlements, see appendix 1.

Unfranked amount

Show at **K** the gross amount of unfranked dividends, and the unfranked amount of partially franked dividends (if the dividend statement shows this amount separately) received before any TFN amounts were withheld.

Even if the TOFA rules apply to the trust, show at **K** all unfranked dividends that were paid or credited to it by Australian companies – this includes those amounts that were paid or credited in respect of financial arrangements subject to the TOFA rules.

If what you show at **K** includes an amount which is brought to account under the TOFA rules, also complete item **31 Taxation of financial arrangements (TOFA)**.

For more information, see Guide to the taxation of financial arrangements (TOFA) rules.

If the trust is a holder, or an associate of a holder, of a share or non-share equity interest in a private company and it received:

- directly or indirectly payments or loans forgiven by the company
- loans or debts forgiven by a trustee, where the company has an unpaid present entitlement to income of the trust, or
- payments from a trustee which are attributable to certain unrealised gains, where the company has an unpaid present entitlement to income of that trust.

Then the amounts of those payments (subject to distributable surplus and in the case of a trust the unpaid present entitlement), loans not repaid or debts forgiven are returned as an unfranked dividend unless they are specifically excluded under the provisions of Division 7A of Part III of the ITAA 1936, or the amount treated as a dividend is franked. Division 7A was amended to enable certain amounts treated as dividends to be franked, for example, a private company can frank an amount treated as a dividend that arises because of a family law obligation in certain circumstances. For the purpose of these rules, a 'loan' has an extended meaning to also include, for example, the provision of financial accommodation and transactions that are in-substance loans.

Dividends paid under a demerger are generally not assessable dividends. Do not include a dividend paid under a demerger at **K** unless the head entity of the demerger group has advised that it is an assessable dividend.

Franked amount

Show at **L** the franked amount of franked dividends received before any TFN amounts were withheld.

If you have received a franked distribution with an associated statement of distribution that does not distinguish between the franked and unfranked portions of the dividend, include the total dividend amount at **L** and include any attached franking credits at **M**.

Franking credit

Show at **M** the amount of franking credits received directly from a paying company.

The beneficiaries or trustee may be entitled to a share of the franking credits shown at **M**. This share will be shown at item 54 on the statement of distribution. The amount of franking credits to which they will be entitled will depend on their individual share of the franked distribution received by the trustee, having regard to the deed and any relevant trustee resolutions.

Do not show:

- franking credits if the trustee did not satisfy the holding period rule and the related payments rule in relation to the dividend, for more information; see appendix 1
- franking credits received indirectly via a partnership or other trust; show your share of franking credit from these franked distributions at **D** item **8**
- franking credits attached to distributions paid by a New Zealand franking company; if the trust received franked distributions from a New Zealand franking company, see item 23 Other assessable foreign source income.

We may check the franking amount shown at **K**, **L** and **M** with our own records to determine accuracy; see Information matching.

TFN amounts withheld from dividends

Show at **N** the total of TFN amounts withheld from dividends received, less any refund of TFN amounts withheld.

13 Superannuation lump sums and employment termination payments

Death benefit employment termination payments (ETPs) and superannuation lump sums paid to trustees of deceased estates are reported at this item. Use the PAYG payment summary – superannuation lump sum or PAYG payment summary – employment termination payment that your payer has provided to complete this question.

Superannuation death benefits paid to a trustee of a deceased estate

A superannuation death benefit paid to a trustee is taxed in the hands of the trustee in the same way that it would be taxed if paid directly to a beneficiary, that is, portions of the payment are subject to tax to the extent that the beneficiary is a dependant or a non-dependant of the deceased. There is no tax payable to the extent that the payment is made to a dependant or eligible non-dependant (see Definition of terms) of the deceased.

Eligible non-dependants of deceased members of the Australian Defence Force and Australian police forces (including Australian Protective Services) who have died in the line of duty are to be treated as dependants for tax purposes.

The superannuation fund should have provided you with a PAYG payment summary – superannuation lump sum, which shows the components of the payment.

The tax-free component of a superannuation death benefit received by a trustee is not subject to tax, regardless of whether the beneficiary is a dependant or non-dependant.

To the extent that a non-dependant is the beneficiary of the estate, the taxable component of the payment is assessable income. Show the taxed element at **V** and the untaxed element at **W**.

If you have more than one payment summary, add the taxable component elements together and show the total of the taxed elements at **V** and the total of the untaxed elements at **W**.

Death benefit employment termination payments

An ETP paid to a trustee is taxed in the hands of the trustee in the same way that it would be taxed if paid directly to a beneficiary, that is, the portions of the payment are subject to tax to the extent that the beneficiary is a dependant or a non-dependant of the deceased.

The employer should have provided you with a PAYG payment summary – employment termination payment which shows the components of the payment.

The tax-free component of an employment termination payment received by a trustee is not subject to tax, regardless of whether the beneficiary is a dependant or a non-dependant.

To the extent that a non-dependant is the beneficiary of the estate, the taxable component of the payment is assessable income and should be shown at **Y** item **13**.

To the extent that the beneficiary of the estate is a dependant, taxable component amounts up to the ETP cap ($175,000 for 2012–13) are not subject to tax and are not shown in the return. Amounts above the ETP cap are assessable income and should be shown at **X**.

If you have more than one payment summary from the same employer, add the components that are assessable income together and show them at the appropriate label.

For more information on ETPs, see Taxation of termination payment (NAT 74294)

Definition of terms

A person is a **dependant** of the deceased if, at the time of death or the time the payment was made, the person was:

- the surviving spouse – including a de facto spouse
- a former spouse – including a former de facto spouse
- a child of the deceased who was under 18 years old
- a financial dependant of the deceased person just before he or she died, or
- in an interdependency relationship with the deceased.

A person who is not a dependant of the deceased may be referred to as a non-dependant.

A person is an **eligible non-dependant** if they are a non-dependant of a deceased member of the Australian Defence Force or of an Australian police force (including Australian Protective Services) who has died in the line of duty.

An **interdependency relationship** exists where there is a close personal relationship between two people who live together, and one or both provide for the financial, domestic and personal support of the other. An interdependency relationship can also exist where there is a close personal relationship, but the other conditions are not satisfied, because of the physical, intellectual or psychiatric disability of one of the people.

Your **spouse** includes another person (whether of the same sex or opposite sex) who:
- you were in a relationship with that was registered under a prescribed state or territory law
- although not legally married to you, lived with you on a genuine domestic basis in a relationship as a couple.

Child, in relation to a person, includes:
- an adopted child, stepchild or an ex-nuptial child of the person
- a child of the person's spouse (as defined above)
- someone who is a child of the person within the meaning of the *Family Law Act 1975,* for example, a child who is considered to be a child of a person under a state or territory court order giving effect to a surrogacy agreement.

14 Other Australian income

Show at **O** the total amount of other Australian income.

If the amount is a loss, print **L** in the box at the right of the amount. The following are some examples of the amounts to be included at **O**.

Gains on the disposal of traditional securities

Show at **O** any gains on the disposal or redemption of a traditional security which are assessable under 26BB of ITAA 1936.

For more information about gains and losses on traditional securities, including traditional securities that are convertible notes or exchangeable notes, see You and your shares 2013 (NAT 2632).

Bonuses from life insurance companies and friendly societies

Life insurance policies are issued by life insurance companies and friendly societies.

If, during the year ended 30 June 2013, the trust received any bonuses or other amounts in the nature of bonuses on the maturity, forfeiture, partial or full surrender of a short-term life insurance policy taken out after 7 December 1983, you may need to show the amount at **O**.

A trust is regarded as having received a bonus if it reinvests or otherwise deals with the bonus during the income year.

Do not include the amount shown on a bonus certificate if the trust:

- received it because of death, accident, illness or other disability suffered by the person on whose life the policy was effected
- received it under a policy held by a complying superannuation fund or scheme, a complying approved deposit fund or a pooled superannuation trust
- can show that the amount was received because of serious financial difficulties
- received a bonus certificate in respect of an amount allocated to increase the amount receivable on surrender or maturity.

If the policy has a date of commencement of risk on or before 7 December 1983, any bonuses received this year are not assessable.

If the policy has a date of commencement of risk after 7 December 1983, the bonus is included in assessable income as follows:

- if received during the first eight years after the date of commencement of risk of the policy, any bonus is included in full
- if received in the ninth-year, two-thirds of the bonus amount is included
- if received in the 10th year, one-third of the bonus amount is included and
- any amounts received after the 10th year are not included.

If, during the term of the policy, the amount of a premium increases by more than 25% over the previous year's premium, the policy is taken to have started again with a commencement date at the beginning of the policy year in which the premium increased.

The beneficiary or trustee may, on their own tax return, claim a tax offset for a bonus or any other amount in the nature of a bonus included in the income if the organisation issuing the life policy is a:

- life insurance company that pays tax on the income from which the amount was paid, or
- friendly society.

The tax offset for the 2012–13 income year is equal to 30 cents in each dollar.

Include the bonus or other amount in the nature of a bonus in the calculation of net income or loss of the trust and apportion it among the beneficiaries in the same ratio as they share in that net income or loss.

If the trust received assessable bonuses from a life insurance company or friendly society, include the total amount at **O**. To ensure the tax offset is allowed, provide a statement showing the amounts from the life insurance company and friendly society life insurance policies – attach the statement to the tax return. Print **X** in the **Yes** box at **Have you attached any 'other attachments'?** at the top of page 1 of the tax return.

Record keeping

If a bonus or other amount in the nature of a bonus is included at **O**, or an amount was not included because of the circumstances under which it was received, keep a record of the following:

- the type of policy
- the name of the issuing organisation
- the policy number
- the date the policy was taken out
- the bonus statement or advice
- for each amount received
    - the date received

- the nature of each amount, for example, bonus, loan or withdrawal
  the circumstances under which each amount was received – for example, partial surrender of policy, serious financial difficulties, death, accident, illness or other disability
- the basis of calculation of the amount included.

For more information on bonuses received from certain life insurance policies, see Taxation Ruling IT 2346 – Income tax: bonuses paid on certain life assurance policies – section 26AH – interpretation and operation.

For more information on amounts switched between investment options for the same life insurance policy, see TD 94/82 *Income tax: does section 26AH of the Income Tax Assessment Act 1936 apply when investment options are 'switched' under an eligible policy?*

Bonuses credited from friendly society income bonds

Include bonuses received from friendly society income bonds at **O**. The statement of distribution issued by friendly societies to income bond holders will advise the amount that should be included as income. Do not include these amounts in the calculation of the tax offset applicable to bonuses from life insurance policies.

Add backs: Listed investment company (LIC) capital gain

If the trust receives or is entitled to receive income from another trust or a distribution from a partnership which advises it has claimed a deduction for a LIC capital gain amount, the trust is required to add back as income an amount equivalent to its share of the deduction allowed to the partnership or other trust.

Royalties

For information on royalty income shown at **O**, see appendix 2.

Foreign exchange gains or losses

Show at **O** assessable Australian source foreign exchange gains or deductible losses that you have not included elsewhere, such as in item **5 Business income and expenses**. If the total amount at **O** is a loss, print **L** in the box at the right of the amount.

For more information on how to calculate foreign exchange gains and losses, see Foreign exchange measures.

As foreign currency is a CGT asset, the capital gains tax provisions can apply to any capital gain or capital loss made on a CGT event. Any capital gain would generally be ignored or reduced to prevent double taxation if the gain was assessable under the TOFA rules or Division 775 of the ITAA 1997.

If a trust has made a foreign exchange gain or loss which is subject to CGT, show the capital gain or capital loss at **A Net capital gain** item **21.**

Excepted net income

Show at **Excepted net income** and include at **O** the excepted net income received, excluding net capital gains that are included at **A Net capital gain** item **21**.

Provide a statement on a separate sheet of paper:
- detailing the distribution of excepted income to each beneficiary, and
- listing each beneficiary who is considered to be an excepted person, giving supporting reasons.

Attach this statement to the tax return and print **X** in the **Yes** box at **Have you attached any 'other attachments'?** at the top of page 1 of the tax return.

For an explanation of excepted income and excepted person, see appendix 10.

TOFA amounts from financial arrangements

If the TOFA rules apply to calculate an assessable gain or deductible loss on the trust's financial arrangements, include at this item those assessable gains and any assessable TOFA transitional balancing adjustments relating to existing financial arrangements.

TOFA amounts that have been included elsewhere should not be included here, for example amounts that have already been included at:
- **S Net income or loss from business** item **5**
- **A Distribution from partnerships** item **8**
- **Z Share of net income from trusts** item **8**
- **J Gross interest** item **11**
- **K Unfranked amount** item **12**
- **B Gross** other assessable foreign source income item **23**.

If the TOFA rules apply to the trust and the other Australian income shown at **O** includes an amount which is brought to account under the TOFA rules, also complete item 31 Taxation of financial arrangements (TOFA).

For more information, see Guide to the taxation of financial arrangements (TOFA) rules.

15 Total of items 5 to 14

Show at item **15** the total of all Australian income. If this amount is a loss, print **L** in the box at the right of the amount.

Deductions

16 Deductions relating to Australian investment income, franked distributions

If the trust was paid a dividend by a LIC directly and the dividend included a LIC capital gain amount, the trust can claim a deduction of 50% of the LIC capital gain amount. If the LIC dividend is franked (either fully or partially) then show at **R** any deduction relating to a LIC capital gain. If the LIC dividend is unfranked, then show at **P** any deduction relating to the LIC capital gain. The listed investment company's dividend advice statement shows the LIC capital gain amount.

Show expenses that are directly related to franked distributions which are derived by the trust directly (rather than through another trust or partnership) at item **16 Deductions relating to: Franked distributions**. These deductions should not include deductions shown at item **8 Deductions relating to franked distributions from trusts in label F**. Expenses related to unfranked distributions are shown at item **16 Deductions relating to: Australian investment income**.

Expenses listed here that are costs associated with borrowing and servicing debt may not be allowable deductions under the thin capitalisation rules, see appendix 3. The disallowed amount reduces the amount that would otherwise go at **P** or **R**.

Deductions for the decline in value of depreciating assets used to earn interest and dividends are generally shown at **P** or **R**. However, if the trust has allocated some of these assets to a low-value pool, you may need to show deductions at **Q,** see appendix 6.

Even if the TOFA rules apply to the trust, show at **P** or **R** all deductions relating to Australian investment income – this includes amounts from financial arrangements subject to the TOFA rules.

If what you show at **P** or **R** includes an amount which is brought to account under the TOFA rules, also complete item **31 Taxation of financial arrangements (TOFA)**.

For more information, see Guide to the taxation of financial arrangements (TOFA) rules

Former STS taxpayers still using the STS accounting method

If the trust is eligible and has chosen to continue using the STS accounting method, it can claim general deductions (for example, interest expense) only when they are paid. For more information on the STS accounting method, see appendix 14.

17 Forestry managed investment scheme deduction

A **forestry interest** in an FMIS is a right to benefits produced by the scheme, whether the right is actual, prospective or contingent, and whether it is enforceable or not.

The **forestry manager** of an FMIS is the entity that manages, arranges or promotes the FMIS.

The trust is an **initial participant** in an FMIS if:

- it obtained the forestry interest in the FMIS from the forestry manager of the scheme, and

- the payment to obtain the forestry interest results in the establishment of trees.

The trust is a **subsequent participant** in an FMIS if it obtains an interest in a forestry managed investment scheme through secondary market trading. This means it acquired its interest other than as an initial participant, usually by purchasing that interest from an initial participant in the scheme.

A trust may be able to claim a deduction at this item for payments made to a forestry managed investment scheme (FMIS) if it:
- currently holds a forestry interest in an FMIS, or held a forestry interest in an FMIS during the income year, and
- paid an amount to a forestry manager of an FMIS under a formal agreement.

If the trust is an **initial participant** it can claim initial and ongoing payments at this item.

If the trust is a **subsequent participant**, it cannot claim a deduction for the amount paid for acquiring the interest. The trust can only claim a deduction for ongoing payments.

The trust can only claim a deduction at this item if the forestry manager has advised you that the FMIS satisfies the 70% direct forestry expenditure rule in Division 394 of the ITAA 1997.

If the trust is an **initial participant**, it cannot claim a deduction if it disposed of the forestry interest in an FMIS within four years after the end of the income year in which a payment was first made.

However, where the disposal occurs because of circumstances outside the control of the trust, the deduction will be allowed, provided that the trust could not have reasonably foreseen the disposal happening when it acquired the interest. Disposals that would be outside the trust's control include compulsory acquisition, insolvency of the trust or the scheme manager, or cancellation of the interest due to fire, floor or drought.

Excluded payments

The calculation of direct forestry expenditure does not include, among other things, any of the following payments made under FMIS (see section 394-10 and 394-40 of the ITAA 1997):
- payments for borrowing money
- interest and payments in the nature of interest
- payments of stamp duty
- payments of GST
- payments that relate to transportation and handling of felled trees after the earliest of the following
  - sale of the trees
  - arrival of the trees at the mill door
  - arrival of the trees at the port
  - arrival of the trees at the place of processing – other than where processing happens in-field
- payments that relate to processing
- payments that relate to stockpiling – other than in-field stockpiling
- marketing and sale of forestry produce.

Show at **D** the total amount of deductible payments made to an FMIS.

18 Other deductions

Show at **Q** any deductible losses and outgoings not already claimed by the trust at any other items.

If the trust is registered for GST, exclude any input tax credit entitlements for expenses incurred by the trust from the amount shown at **Q**.

Former STS taxpayers still using the STS accounting method

If the trust is eligible and has chosen to continue using the STS accounting method, it can claim deductions for the following expenses only when they are paid:

- general deductions, for example interest expense
- tax-related expenses
- expenses for repairs.

For more information on the STS accounting method, see appendix 14.

Losses and outgoings

You can claim a deduction for losses and outgoings if they are incurred in gaining or producing assessable income, or necessarily incurred in carrying on a business for the purpose of gaining or producing such income.

However, under section 25–90 of the ITAA 1997, a trust may be able to claim a deduction for costs incurred in obtaining or servicing debt interests (as defined in ITAA 1997) if the costs are incurred in earning foreign source income which is non-assessable non-exempt income under section 23AI or 23AK of the ITAA 1936. The amount of the deduction is subject to any reduction required by the thin capitalisation rules. Similar rules apply under subsection 230-15(3) of the ITAA 1997 in relation to your debt interest that is a financial arrangement covered by the TOFA rules.

Debt deductions (such as interest and borrowing costs) incurred in earning assessable foreign source income that are not attributable to an overseas permanent establishment of the taxpayer should be included at **Q**. You can deduct these expenses against assessable income of the trust, subject to any reduction required under the thin capitalisation rules. Do not include them in the calculation of the net foreign source income at item **V** in **23 Other assessable foreign source income** or any other item.

You cannot claim a deduction for the following:

- losses or outgoings of capital or of a capital, private or domestic nature, except where special provision is made in the income tax law
- expenses incurred in gaining or producing exempt or non-assessable non-exempt income – except certain debt deductions under section 25–90 or subsection 230-15(3) of the ITAA 1997
- penalties or fines
- income tax liabilities
- entertainment, except in very limited circumstances
- costs associated with borrowing and servicing debt to the extent that a deduction is denied under the thin capitalisation rules.

For more information, see appendix 3. The disallowed amount reduces the amount that would otherwise be shown in **Q**.

Interest expenses

If a trustee borrows money to pay distributions to a beneficiary, the trustee will only be able to take into account the interest expenses incurred on those borrowed funds when calculating the net income of a trust estate in certain circumstances, see TR 2005/12 *Income tax: deductibility of interest expenses incurred by trustees on funds borrowed in connection with the payment of distributions to beneficiaries.*

In order to be deductible, the interest expense must be sufficiently connected with the assessable income earning activity of the trust. There will be sufficient connection if the purpose of the trustee borrowing funds is to refinance a returnable amount. Trustees who have incurred interest expenses on monies borrowed to pay distributions to beneficiaries should seek advice either from their professional advisers or the ATO.

Tax-related expenses

Show at **Q** any expenses incurred by the trust in the management of its tax affairs – these expenses include:

- the cost of attending an ATO audit
- tax planning
- expenditure on your income tax affairs – that is, a fee or commission for professional advice where the advice is provided by a registered tax agent, a barrister or solicitor
- an interest charge imposed by the ATO on taxes and penalties
- a penalty for underestimating a varied GST instalment or PAYG instalment.

Show a deduction for the decline in value of a depreciating asset used in managing the tax affairs of the trust at **Q** – for more information about working out decline in value, see appendix 6.

You cannot claim a deduction for costs for any offence-related matter, for example, the cost of defending a tax prosecution.

If expenditure allowed or allowable as a deduction is recouped, include the amount recouped in assessable income in the year of recoupment.

Losses on the disposal of traditional securities

Show at **Q** any non-capital losses incurred upon the disposal or redemption of a traditional security which are deductible under section 70B of the ITAA 1936. For more information about gains and losses on traditional securities, including traditional securities that are convertible notes or exchangeable notes, see You and your shares 2013.

TOFA amounts from financial arrangements

If the TOFA rules apply to calculate an assessable gain or deductible for loss on the trust's financial arrangements, include at this item those deductible losses and any deductible TOFA transitional balancing adjustment relating to existing financial arrangements.

TOFA amounts that have been included elsewhere should not be included here, for example amounts that have already been included at:

- **S Net income or loss from business** item **5**
- **G Interest deductions** item **9.**

If what you show at **Q** includes an amount which is brought to account under the TOFA rules, also complete item **31 Taxation of financial arrangements (TOFA)**.

For more information, see Guide to the taxation of financial arrangements (TOFA) rules.

Payment of premiums to a non-resident insurer

You can only claim a deduction for insurance premiums paid to a non-resident insurer for the insurance of property situated in Australia or of an event which can happen only in Australia where:

- the premium would otherwise be deductible to the trust, and
- arrangements have been made to the satisfaction of the ATO for the payment of any tax payable or which may become payable in relation to the premium.

Keep a record of the details supporting any claim for a deduction.

For more information about the tax obligations of non-resident insurers and their agents in Australia, see Insurance with foreign resident insurers.

Gifts

In some trusts, the trustee may have the power to make gifts or donations from the trust fund.

The trust can only claim a deduction for gifts (including cash) made to an organisation which is a deductible gift recipient (DGR). DGRs are endorsed by the ATO or specifically named in income tax law. Some of the types of bodies that can be endorsed as DGRs are public benevolent institutions, school building funds and approved overseas aid funds.

To check whether the organisation is a DGR, go to ABN Lookup or phone **1300 130 248**.

Gifts of $2 or more of certain property, or money, may be deductible. This includes gifts of property valued by the ATO at more than $5,000, and property purchased by the donor during the 12 months before the gift was made, and shares valued at $5,000 or less acquired in an Australian publicly listed company at least 12 months before the gift was made.

If claiming a donation for property valued by the ATO at more than $5,000, or under the Cultural Gifts Program, or to National Trust bodies, keep the required valuation certificates.

A trust may elect to spread deductions over five income years or less, where the gift is money, or property valued by the ATO at more than $5,000. Special requirements apply for spreading deductions for certain environmental, heritage and cultural property gifts.

For more information, see Making tax deductible donations.

Deductions for political contributions and gifts

From 1 July 2008, only individuals can deduct contributions and gifts to political parties and independent members and candidates; and the individual claiming the deduction must not have made the gift or contribution in the course of carrying on a business.

Show at **Q** the deduction for gifts to DGRs. The deduction cannot add to or create a tax loss. You may need to reduce the claim where the amount at item **20 Net Australian income or loss** is a loss.

Subscriptions

Show at **Q** any expenses incurred for subscriptions paid to:
- trade, business or professional associations
- other organisations where the subscription expense is incurred in producing assessable income
- journals or magazines related to producing assessable income.

Do not claim for fees paid for membership of a sporting or social club, or a political party.

Deductions for depreciating assets in a low-value pool

If the trust has allocated depreciating assets used for different income-producing purposes to its low-value pool (for example, some assets are used for producing rental income, or carrying on a business) and it has not shown them at any other item show the low-value pool deduction at **Q**, for more information, see appendix 6.

Film industry incentives

The conditions under which concessions are available for the Australian film industry are explained in Film industry incentives 2013.

The law about claiming deductions for investments in Australian films has changed for 2009–10 and later income years. As a consequence of the introduction of the Australian screen production incentive, Division 10B and Division 10BA of Part III of the ITAA 1936 has been repealed with effect from 1 July 2010. The trust cannot claim a deduction under Division 10BA for the 2009–10 or later income years. The trust cannot claim a deduction under Division 10B for the 2010–11 or later income years.

If you wish to claim deductions for income years prior to 2009–10, or a Division 10B deduction for the 2009–10 income year, see the publication Australian film industry incentives 2009.

19 Total of items 16 to 18

Show at item **19** the total deductions relating to Australian income.

20 Net Australian income or loss

Show at **$** the net income or loss relating to Australian income – that is, total Australian income, minus total deductions. If this amount is a loss, print **L** in the box at the right of the amount.

21 Capital gains

Did you have a CGT event or did the trust have an amount of capital gain(s) from another trust during the year?

If the trust had a CGT event happen during the income year, or if the trust's share of the net income of another trust included an amount attributable to a capital gain made by that other trust, print **X** in the **Yes** box at **G**. Otherwise, print **X** in the **No** box at **G**.

Generally a trust makes a capital gain or capital loss if certain events or transactions, called CGT events, happen. Most commonly, CGT events happen to a trust's CGT assets (for example, the disposal of a CGT asset) while other CGT events relate directly to capital receipts (capital proceeds).

If the trust ceases to hold or use a depreciating asset which was used for both taxable and non-taxable purposes, a CGT event may happen to the asset. A capital gain or capital loss attributable to that non-taxable use may arise, for more information see the Guide to depreciating assets 2013 (NAT 1996).

An Australian resident makes a capital gain or capital loss if a CGT event happens to any of its worldwide CGT assets.

The CGT discount rules for foreign residents have changed. This may affect trusts with foreign-resident individual beneficiaries. For more information, see Removal of the capital gains tax discount for non-residents.

Foreign entities and CGT events

A capital gain or capital loss from a CGT event may be disregarded if the trust is a foreign trust just before the CGT event happens, if it happens in relation to a CGT asset that is not taxable Australian property, see section 855-10 of the ITAA 1997.

A CGT event in relation to an interest in a fixed trust held by a beneficiary who is a foreign resident may not be subject to CGT if at least 90% of the assets of the fixed trust directly or indirectly through a chain of fixed trusts in which the fixed trust has an indirect or direct interest are not taxable Australian property at the time of the CGT event (see section 855-40). If you are the trustee of such a fixed trust, you may need to attach sufficient additional information to the statement of distribution provided to the beneficiaries, to enable them to work out their CGT position.

Have you applied an exemption or roll-over?

If the trust has capital gains disregarded or deferred as a result of an application of a CGT exemption or roll-over, print **X** in the **Yes** box at **M**. If you printed **X** for **Yes**, you may need to provide details of certain CGT exemptions and roll-overs, if you are required to lodge a CGT schedule.

Print in the **code box** at **21 M** the code(s) from the list below that describe the CGT exemption(s) and roll-over(s) from which the trust has applied to disregard or defer a capital gain or capital loss made. If the trust applied more than one CGT exemption or roll-over, select all of the codes that apply. If you are lodging by paper write the code that represents the CGT exemption or roll-over that produced in the largest amount of capital gain or capital loss deferred or disregarded.

CGT exemptions or roll-over code:

A Small business active asset reduction (subdivision 152-C)

B Small business retirement exemption (Subdivision152-D)

C Small business roll-over (Subdivision 152-E)

D Small business 15-year exemption (Subdivision152-B)

E Non-resident CGT exemption (Division 855)

F Scrip for scrip roll-over (Subdivision 124-M)

H Demerger exemption (Subdivision 125-C)

I Main residence exemption (Subdivision 118-B)

J Capital gains disregarded as a result of the sale of a pre-CGT asset

K Disposal or creation of assets in a wholly-owned company (Division 122)

L Replacement asset roll-overs (Division 124)

M Exchange of shares or units (Subdivision 124-E)

N Exchange of rights or options (Subdivision 124-F)

O Exchange of shares in one company for shares in another company (Subdivision 124-G)

P Exchange of units in a unit trust for shares in a company (Subdivision 124-H)

Q Disposal of assets by a trust to a company (Subdivision 124-N)

R Demerger roll-over (Subdivision 125-B)

S Same asset roll-overs (Division 126)

X Other exemptions and roll-overs

For more information, see Guide to capital gains tax 2013.

If the trust is required to lodge a CGT schedule, you may need to provide details of the capital gains deferred or disregarded as a result of applying certain CGT exemptions and roll-overs.

CGT worksheets and schedules

For more information about CGT events, see the Guide to capital gains tax 2013 which includes a:

- capital gain or loss worksheet for calculating a capital gain or capital loss for each CGT event
- CGT summary worksheet for calculating the trust's net capital gain or capital loss
- CGT schedule.

The worksheets will help you calculate a trust's net capital gain or capital loss for the income year and complete the CGT entries on the trust tax return. You do not have to complete the worksheets. However, if you do, do not attach them to the trust tax return, but keep them with the trust's tax records.

Complete a CGT schedule and attach it to the trust tax return if the trust had:

- total current year capital gains greater than $10,000, or
- total current year capital losses greater than $10,000.

Net capital gain

The trust's net capital gain is the total capital gains it made for the income year, less its current year capital losses, unapplied prior year net capital losses, CGT discount and any other relevant concessions. Relevant concessions are the small business:

- CGT 50% active asset reduction
- CGT 15-year asset exemption
- CGT retirement exemption
- CGT roll-over.

Show at **A** the amount of the trust's net capital gain. If you have used the CGT summary worksheet or CGT schedule, this is the amount at:

- **6A** at **part 6** of the CGT summary worksheet in the Guide to capital gains tax 2013, or
- **A** at **part 6** of the CGT schedule.

For more information on how to calculate the trust's net capital gain, see the Guide to capital gains tax 2013.

For information about the small business concessions, see the:

- Guide to capital gains tax concessions for small business (NAT 8384)
- Advanced guide to capital gains tax concessions for small business (NAT 3359).

Record any unapplied net capital losses carried forward to later income years at **V** item **27**. The trust may need to complete a losses schedule, for more information see the Losses schedule instructions 2013 (NAT 4088).

Excepted net capital gain of a minor

Include the amount of any excepted net capital gain of a minor at **A** and provide a statement on a separate sheet of paper:

- detailing the distribution of excepted net capital gains to each beneficiary, and
- listing each beneficiary who is considered to be an excepted person, giving supporting reasons.

Attach this statement to the tax return and print **X** in the **Yes** box at **Have you attached any 'other attachments'?** at the top of page 1 of the tax return.

For an explanation of excepted income and excepted person, see appendix 10.

Foreign income

22 Attributed foreign income

For information on calculating the amounts shown at **M**, **U** and **X**, see the Foreign income return form guide 2013 (NAT 1840).

Where the trust is a member of a consolidated group for the whole income year and derived foreign income, the responsibility for preparing the schedule will rest on the head company of the consolidated group.

Where a return is required because the trust had a period in the income year when it was not a member of a consolidated group (a non-membership period) the trust should complete an International dealings schedule 2013 where it has derived foreign income attributable to non-membership period.

If the trust was a subsidiary member of a consolidated group at any time during the income year and has completed **Z2** item **2**, an *International dealings schedule 2013* is not required.

Did you have overseas branch operations or a direct or indirect interest in a foreign trust, foreign company, controlled foreign entity or transferor trust?

With the repeal of the foreign investment fund rules, the term 'foreign trust' in this context refers to a controlled foreign trust.

Direct or indirect interests in a controlled foreign company or a controlled foreign trust are taken to have the same meaning as set out in Division 3 of Part X of the ITAA 1936. For the purposes of the controlled foreign company rules, do not trace interests through another Australian entity. For example, if your trust has an interest in an Australian trust, which owns a controlled foreign company, your trust is not regarded as having a direct or indirect interest in the controlled foreign company although your trust must still include any attributable income to which it was presently entitled at item **22 Attributable foreign income**.

A trust has an interest in a transferor trust if the trust has ever made, or caused to be made, a transfer of property or services to a non-resident trust. Transfer of property and services is defined in section of 102AAB the ITAA 1936.

Sections 102AAJ and 102AAK of the ITAA 1936 provide guidance on whether there was a transfer, or a deemed transfer, of property or services to a non-resident trust.

If the answer to this question is yes, print **X** in the **Yes** box at **S** and complete and attach an *International dealings schedule 2013*.

Attach the completed *International dealings schedule 2013* to the tax return. Print **X** in the **Yes** box at **Have you attached any 'other attachment'?** at the top of page 1 of the tax return.

If the answer to this question is no, print **X** in the **No** box at **S**.

For more information, see the International dealings schedule instructions 2013 (NAT 73959).

Listed country

Show at **M** the amount of gross attributed foreign income from controlled foreign entities and transferor trusts of listed countries. Listed countries are set out in Part 1 of Schedule 10 to the Income Tax Regulations 1936 (ITR 1936).

Attributed foreign income is the income attributed to the taxpayer from controlled foreign entities, calculated in accordance with Division 7 of Part X of the ITAA1936, and includes an amount grossed-up under section 392 of the ITAA 1936, as appropriate, to the extent of any foreign taxes paid.

Show at **M** the amount of income attributed from a transferor trust that is a listed country trust estate, calculated in accordance with Subdivision D of Division 6AAA of the ITAA 1936.

A listed country trust estate is defined in section 102AAE of the ITAA 1936.

Section 404 country

Show at **U** the amount of attributed foreign income from controlled foreign entities in section 404 countries. Section 404 countries are listed in Part 2 of Schedule 10 to the ITR 1936.

Also show at **U** the amount of income attributed from a transferor trust if the entire income and profits of the trust are subject to tax in a section 404 country. Do not include the amount if it is shown at **M**.

Unlisted country

Show at **X** the amount of attributed foreign income from controlled foreign entities in unlisted countries – unlisted countries are countries that are not listed in Schedule 10 to the ITR 1936.

Show at **X** the amount of income attributed from a transferor trust if the amount has not been shown at **M** or **U**.

23 Other assessable foreign source income

Complete a losses schedule if the trust:
- has a foreign loss component of tax losses deducted in the 2012–13 income year or carried forward to later income years
- has an interest in a controlled foreign company (CFC) that has current year losses greater than $100,000
- has an interest in a CFC that has deducted or carried forward a loss to later income years greater than $100,000.

If the trust received assessable dividends directly or indirectly from a New Zealand franking company, the dividends (including any supplementary dividends) must be declared as assessable foreign income even if dividend withholding tax was deducted in New Zealand.

The individual beneficiaries of the trust may be able to claim a foreign income tax offset for any New Zealand dividend withholding tax paid on the dividend, see the Foreign income return form guide 2013 to work out whether the dividend is assessable income.

If the dividend from a New Zealand franking company is assessable income, then the amount of the Australian franking credit attached to the dividend is also assessable income. Subject to satisfying certain qualifying criteria, the beneficiaries or trustee may be entitled to a share of the benefit of Australian franking credit attached to the franked dividend, for more information, see appendix 1.

The dividend may include an amount of New Zealand imputation credits. Australian residents cannot claim any amounts of New Zealand imputation credits.

Gross foreign source income

Show at **B** the gross amount of assessable income derived from foreign sources, including amounts distributed from partnerships and other trusts as well as New Zealand franking company dividends and supplementary dividends – include any foreign tax paid on that income.

Do not include at **B**:

- any income which is exempt from tax in Australia or treated as non-assessable non-exempt income under sections 23AI and 23AK of the ITAA 1936
- any amount of New Zealand imputation credits
- any amount of Australian franking credits attached to dividends from a New Zealand franking company – show these at **D**
- income already shown at item **22 Attributed foreign income**
- any foreign source capital gains or capital losses.

Include foreign source capital gains or capital losses when calculating the amount at item **21 Capital gains**.

In referring to 'foreign source capital gains', an Australian resident trust makes a capital gain if a CGT event happens to any of their overseas CGT assets.

Broadly, a trust that is not an Australian resident makes a capital gain only if the CGT asset is taxable Australian property just before the CGT event happens.

Even if the TOFA rules apply to the trust, show at **B** all income derived from foreign sources: this includes amounts from financial arrangements subject to the TOFA rules.

If what you show at **B** includes an amount which is brought to account under the TOFA rules, also complete item **31 Taxation of financial arrangements (TOFA)**. This may include assessable TOFA gains from unrealised movements in the value of financial arrangements.

Net foreign source income

Show at **V** the net income derived from foreign sources.

The amount at **V** is the gross amount shown at **B**, less any deductions allowable to the trust against that income. Debt deductions (such as interest and borrowing costs) that relate to assessable foreign source income and that are not attributable to an overseas permanent establishment of the taxpayer are not applied against assessable foreign source income for the purpose of calculating net foreign income or identifying a foreign loss. Do not claim these amounts here – include them at item **18 Other deductions**.

If the amount at **V** is negative, print **L** in the box at the right of the amount.

If what you show at **V** includes an amount which is brought to account under the TOFA rules, also complete item **31 Taxation of financial arrangements (TOFA)**.

Foreign losses are no longer quarantined from domestic assessable income (or from assessable foreign income of a different class). As a result, in utilising deductions, no distinction is made in respect of the source of the assessable income, whether foreign or domestic. The trust combines both foreign and domestic deductions. Where the combined deductions exceed net exempt income and assessable income, the excess is a tax loss. This tax loss can be carried forward and applied in a future income year, against, firstly, net exempt income; and, secondly, the excess of assessable income over deductions (except tax losses).

These changes apply from the entity's first income year starting on or after 1 July 2008 (the commencement year).

Prior-year overall foreign losses that existed at commencement are subject to transitional rules. Generally, overall foreign losses for a particular earlier income year were grouped together and converted to a tax loss. Utilisation of the converted tax loss is restricted for the first four years after commencement of the new rules. Subsequent to the transitional period, any remaining tax loss will be subject to the ordinary loss utilisation rules.

Do not claim these losses here – include any amount of these losses utilised this year at item **25 Tax losses deducted**.

Under the trust loss provisions of Schedule 2F to the ITAA 1936, certain rules have to be satisfied by a trust before it can use prior-year unrecouped foreign losses, for more information about the trust loss provisions, see appendix 8.

Foreign income tax offsets

Show at **Z** the amount of any foreign income tax paid by the trust on foreign source income it derives.

If foreign income tax has actually been paid by the trust, then the beneficiaries may be able to claim a foreign income tax offset in their individual tax returns.

Example 10

> The S trust estate derives rental income from commercial property investments in a foreign country, on which the trustee pays foreign income tax. Samantha, an Australian resident, is the sole beneficiary of the S trust estate and is presently entitled to all of its income. As such, she is assessed on the whole of the trust's net income. Although Samantha hasn't directly paid the foreign income tax, she is deemed to have paid it.

Australian franking credits from a New Zealand franking company

Show at **D** the amount of Australian franking credits that are included in the net income of the trust because of franked dividends received from a New Zealand franking company directly or indirectly through a partnership or other trust.

The amount shown at **D** is not necessarily the total amount that the trustee or beneficiaries can claim, see appendix 1.

24 Total of items 20 to 23

Show at item **24** the total of the amounts shown at items **20** to **23**.

If this amount is a net loss, print **L** in the box at the right of the amount. Do not include prior year Australian or foreign source losses here.

If the amount shown at item **24** for a trust is a net income amount and the trust is able to deduct the whole or part of prior year losses in the 2012–13 income year under section 36-15 of the ITAA 1997, show the amount of prior year losses to be deducted at item **25 Tax losses deducted**.

25 Tax losses deducted

Show at **C** tax losses from earlier income years, which are deductible in the 2012–13 income year under section 36-15 of the ITAA 1997.

Exclude the film component of any tax loss (film loss). A film loss is shown, to the extent permissible, at item **18 Other deductions**: see the publication Australian film industry incentives 2009.

Show here any foreign loss component of tax losses that are being deducted in the current income year. The transitional rules in the Income Tax (Transitional Provisions) Act 1997 require the extinguishment of certain foreign losses carried forward from prior years on conversion to a tax loss and impose an annual limit on the utilisation of the remaining foreign losses for the first four years of the measure's operation. Do not show current year foreign losses here – they are included at item **23 Other assessable foreign source income**.

Complete a losses schedule if the trust is a listed widely held trust (as defined in Schedule 2F to the ITAA 1936) and the trust is required to pass the same business test in order to claim a deduction for losses in the 2012–13 income year or will be required to pass that test in respect of losses being carried forward to later income years, see Subdivision 269-F of Schedule 2F to the ITAA 1936.

For more information on the requirements for lodging the losses schedule, see the Losses schedule instructions 2013.

The following information will help you to complete **C**:

- The total of any tax losses shown at **C** cannot exceed the amount of net income shown at item **24 Total of items 20 to 23**.
- Under the provisions of Schedule 2F to the ITAA 1936, certain conditions have to be satisfied by a trust before it can claim a deduction under section 36-15 of the ITAA 1997 for the whole or part of an earlier income year loss. Some trusts may have to work out their net income and tax loss for a year in a

special way under Division 268 of Schedule 2F. For more information about the trust loss provisions see appendix 8.
- Complete item **27 Losses information** if the income injection test under the trust loss provisions prevents the trust, including a family trust, from fully claiming a deduction for tax losses of an earlier income year in the 2012–13 income year: see Division 270 of Schedule 2F to the ITAA 1936.
- If the trust has net exempt income and an excess of assessable income over total deductions, other than tax losses of earlier income years, deduct the tax loss from the net exempt income and then deduct any remaining amount of tax loss from the excess assessable income: see subsection 36-15(3) of the ITAA 1997.
- If the trust has net exempt income and an excess of total deductions, other than tax losses of earlier income years, over assessable income, subtract the excess deductions from the net exempt income and then deduct the tax loss from any net exempt income that remains: see subsection 36-15(4) of the ITAA 1997. A trust's net exempt income is calculated in accordance with section 36-20 of the ITAA 1997.
- Losses may generally be carried forward indefinitely until deducted, irrespective of the year in which the loss was incurred.

Beneficiaries with no interest in trust capital

A life tenant is a beneficiary with an interest in the income of the trust estate for the duration of their life, but with no interest in the capital of the trust.

If the trust includes a beneficiary who is a life tenant or a beneficiary with no interest in the capital of the trust, you cannot claim a deduction for tax losses of earlier income years in calculating the share of those particular beneficiaries in the net income of the trust if the tax losses of previous years are required to be met out of corpus.

Example 11

> The XYZ trust has tax losses of earlier income years of $2,000. Its net income is $20,000, excluding losses of earlier income years. There are two presently entitled beneficiaries of the trust, each with a 50% interest in the income of the trust. The trust deed requires tax losses to be met out of corpus.
>
> One beneficiary is a life tenant. The other has an interest in the income and the capital of the trust.
>
> In calculating the net income of the trust for the life tenant's share, no account is taken of earlier year losses. The life tenant's share of the net income of the trust for tax purposes is 50% of $20,000 – that is, $10,000.
>
> Conversely, in calculating the other beneficiary's share of the net income of the trust, earlier year losses are taken into account. That beneficiary's share of the net income of the trust for tax purposes is 50% of ($20,000 – $2,000) – that is, $9,000.

26 Total net income or loss

The amount shown at item **26** must be equal to the amount shown at **item 24 Total of items 20 to 23**, less any amount shown at item **25 Tax losses deducted**.

If at item **24** you show a net loss amount, the total shown at item **26** is the same. If at item **24** you show a net income amount, the amount at item **26** cannot be a loss since the total amount you can claim as a deduction at item **25** must not exceed the net income at item **24**.

Print **L** in the box at the right of the amount, if the amount at item **26** is a loss.

27 Losses information

Do not include carried-forward film losses at this item.

If the total of the trust's tax losses and net capital losses carried forward to later income years is greater than $100,000, complete a Losses schedule 2013 (NAT3425) and attach it to the trust tax return.

Tax losses carried forward to later income years

Show at **U** the undeducted amount of tax losses incurred by the trust that can be carried forward to a later income year under section 36-15 of the ITAA 1997. Do not show any net capital losses to be carried forward to later income years at **U.** Show them separately at **V Net capital losses carried forward to later income years** and in the CGT schedule, if a schedule is required.

Net exempt income reduces a current year tax loss. If there is any excess exempt income, then the prior year tax losses will be reduced.

Tax losses carried forward may be affected by the commercial debt forgiveness provisions, see appendix 4.

If the income injection test in Division 270 of Schedule 2F to the ITAA 1936 prevents the trust from fully claiming a deduction in the 2012–13 income year, include the amount that the trust cannot claim in the amount shown at **U**. Include the full amount of the 'scheme assessable income' within the meaning of Division 270 in the amount of total net income of the trust shown at item **26 Total net income or loss**.

If the trust is required to complete a losses schedule, the amount of the tax losses shown at **U** in **part A** of that schedule must be the same as the amount shown at **U** on the trust tax return.

Net capital losses carried forward to later income years

Show at **V** the total of any unapplied net capital losses from collectables and all other CGT assets and CGT events. This information is calculated or transferred from:

- **3B** in Table 5 and **3A** in Table 9 of the CGT summary worksheet in the *Guide to capital gains tax 2013*, or
- **A** and **B** in part 3 of the CGT schedule, if a schedule is required.

For more information, see the Guide to capital gains tax 2013.

If the trust is required to complete a losses schedule, the amount shown at **V Net capital losses carried forward to later income years** in **part A** of that schedule must be the same as the amount shown at **V** on the trust tax return.

28 Landcare and water facility tax offset

You cannot claim the landcare and water facility tax offsets for expenditure incurred after the 2000–01 income year.

Landcare and water facility tax offset brought forward from prior years

Show at **G** the total of any landcare and water facility tax offsets carried forward and available to be applied in this income year.

The landcare and water facility tax offset is a carry-forward, non-refundable tax offset. This means you can carry forward indefinitely any excess tax offset, after tax liabilities are met, to use against future income tax liabilities. Before the tax offset can be applied in a later income year, it must be successively reduced by any unused net exempt income derived in the year the tax offset arose and any subsequent income year, providing you had a taxable income in that year. The tax offset is reduced by 30 cents for each dollar of net exempt income for 2000–01 and later income years.

The amount to show at **G** should take this reduction into account.

Overseas transactions

29 Overseas transactions

Was the aggregate amount of your transactions or dealings with international related parties (including the value of any property/service transferred or the balance of any loans) greater than $2 million?

If the answer to this question is no, print **X** in the **No** box at **W**. If the answer is yes, print **X** in the **Yes** box at **W**.

Did the thin capitalisation provisions apply?

Print **X** in the appropriate box at **O**. For more information, see appendix 3.

If the answer is yes for either label **W** or **O**, complete and attach an International dealings schedule 2013 to the tax return. Print **X** in the **Yes** box at **Have you attached any 'other attachments'?** at the top of page 1 of the tax return.

Where the trust is a member of a consolidated group for the whole income year and derived foreign income, the responsibility for preparing the schedule will rest on the head company of the consolidated group. Where a return is required because the trust had a period in the income year when it was not a member of a consolidated group (a non-membership period) the trust should complete an *International dealings schedule 2013* where it has derived foreign income attributable to non-membership period.

The aggregate amount of the trust's transactions or dealings is the total amount of all dealings, whether on revenue or capital account (including property transfers or service provision), and includes the balance of any loans or borrowings outstanding with international related parties. Transactions must not be netted off against each other: for example a $600,000 purchase from, and a $700,000 sale to, a related party should be treated as totalling $1,300,000, not $100,000.

International related parties are persons who are parties to international dealings that can be subject to section 136AD of the ITAA 1936 or the associated enterprises article of a relevant double tax agreement (DTA). The term includes the following:

- any overseas entity or person who participates directly or indirectly in the management, control or capital of the trust
- any overseas entity or person in respect of which the trust participated directly or indirectly in the management, control or capital
- any overseas entity or person in respect of which persons who participate directly or indirectly in its management, control or capital are the same persons who participate directly or indirectly in the management, control or capital of the trust

'Participates' includes a right of participation, the exercise of which is contingent on an agreed event occurring. 'Person' has the same meaning as in subsection 6 (1) of the ITAA 1936 and section 995-1 of the ITAA 1997.

For more information as to the relevant degree of participation, see TR IT 2514 *Income tax: Company Schedule 25A: Information return for companies that transact business with related overseas entities.*

The type of dealings or transactions which will require the trust to complete an *International dealings schedule 2013* are its dealings with related parties as above, such as an overseas holding company, overseas subsidiary, or non-resident trust in which the entity has an interest. These dealings or transactions may be the provision or receipt of services, or transactions in which money or property has been sent out of Australia, or received in Australia from an overseas source during the income year. They may include the transfer of tangible or intangible property, provision or receipt of services, or the provision or receipt of loans or financial services.

If money or property is not actually sent out of Australia or received in Australia, but accounting entries are made that have the effect of money or property being transferred, this is also to be taken as an international transaction.

Interest expenses overseas

Show at **D** the amount of interest paid to non-residents.

This amount should have been included at **I** item **5**, plus or minus any reconciliation adjustment for interest expense that you include at **B Expense reconciliation adjustments item 5**.

If you include an amount at **D**, complete an International dealings schedule 2013.

An amount of tax (withholding tax) is generally withheld from interest paid or payable to non-residents, and from interest derived by a resident through an overseas branch. You must remit these amounts to the ATO. You cannot claim a deduction unless you have remitted any withholding tax to the Commissioner of Taxation. If you have withheld amounts from payments to non-residents, you may need to lodge a PAYG withholding from interest, dividend and royalty payments paid to non-residents – annual report by **31 October 2013**. For more information, phone **13 28 66**.

Do not use the trust return as a substitute for the *PAYG withholding from interest, dividend and royalty payments paid to non-residents – annual report*.

Royalty expenses overseas

Show at **E** the royalty expenses paid to non-residents during the income year.

If you include an amount at E, complete an International dealings schedule 2013.

This amount should have been included at **J** item **5**, plus or minus any reconciliation adjustment for royalty expenses that you included at **B** 'Expense reconciliation adjustments' item **5**.

An amount of tax (withholding tax) is generally withheld from royalties paid or payable to non-residents and from royalties derived by a resident through an overseas branch – you must remit this amount to the ATO. You cannot claim a deduction unless you have remitted any withholding tax to the Commissioner. If you have withheld amounts from payments to non-residents, you may need to lodge a PAYG withholding from interest, dividend and royalty payments paid to non-residents – annual report by **31 October 2013**. For more information, phone **13 28 66**.

Do not use the trust return as a substitute for the *PAYG withholding from interest, dividend and royalty payments paid to non-residents – annual report*.

Record keeping

Keep a record of the following:

- names and addresses of recipients
- amounts paid
- nature of the benefit derived, for example, a copy of the royalty agreement
- details of tax withheld where applicable and the date on which it was remitted to the ATO.

Non-resident beneficiaries

Was any beneficiary who was not a resident of Australia at any time during the income year 'presently entitled' to a share of the income of the trust?

If the answer to this question is no, print **X** in the **No** box at **A**. If the answer is yes, print **X** in the **Yes** box at **A**.

Ensure that the details of the beneficiaries and the assessable amounts of net income referable to the income of the trust estate to which each beneficiary, who is a non-resident at the end of the income year, is presently entitled are entered under **Non-resident beneficiary additional information** in **J** and **K** at the bottom of item **54 Statement of distribution**. Do not include here the non-resident beneficiary's share of the trust income which is subject to non-resident withholding tax, such as withholding tax on interest, dividend and royalties. Instead, these amounts should be detailed in the additional information statement for the beneficiary and attached to the return.

If a beneficiary is a non-resident at the end of the income year and is presently entitled to a share of the income of the trust, the trustee is liable to tax on that share of the net income of the trust that is attributable to a period when the beneficiary was a resident, regardless of its source, and so much of the share of the net income that is attributable to a period where the beneficiary was a non-resident and is also attributable to Australian sources.

In the case of amounts covered by a withholding requirement, the trustee, at the time of distribution, deducts the tax payable and remits it to the ATO. If you have withheld amounts from payments to non-residents, you may need to lodge a PAYG withholding from interest, dividend and royalty payments paid to non-residents – annual report by 31 October 2013. For more information, phone **13 28 66**.

Attach a statement for each beneficiary who was a non-resident of Australia at any time during the income year, and who was presently entitled to income of the trust, showing:

- full details of any distribution to the beneficiary, including amounts of interest, royalties, franked dividends and unfranked dividends
- if a withholding amount has been paid and remitted to the ATO from the distribution, the amount of such distribution and the withholding amount paid
- name and residential address
- if any change occurred in the residency status of the beneficiary during the income year, details of when the beneficiary became or ceased to be a resident
- if from any distribution (other than interest, dividend or royalty income subject to non-resident withholding tax) made to the beneficiary, tax has been deducted and remitted to the ATO, the amount of the credit claimed for remittances made
- if the trust is a fixed trust and at least 90% of its assets, held either directly or indirectly, are not taxable Australian property
- if it is contended that all or part of the non-resident beneficiary's share of the income included income of the trust derived outside Australia and while the beneficiary was not a resident
  - the beneficiary's share of that income
  - the basis of the contention that the beneficiary is not a resident of Australia.

Also provide evidence that:

- if no amounts have been transferred overseas, the beneficiary's share of income has been applied for the benefit of the beneficiary or otherwise dealt with on behalf of the beneficiary
- the beneficiary has been notified of the entitlement.

Transactions with specified countries

Did you send any funds or property to, or receive any funds or property from, any of the countries listed below? This includes sending or receiving funds or property indirectly, through another entity or country.

Do you have the ability to control the disposition of any funds, property, investments, or any other assets located in any of the countries listed below? This includes:

- funds or assets may be located elsewhere, but are controlled or managed from one of the countries listed below, and
- where you have an expectation you are able to control the disposition of the funds or assets, or you have the capacity to control the disposition indirectly, for example, through associates.

Print **X** in the **Yes** box for yes, or **X** in the **No** box for no at **C**.

The specified countries are as follows:

Andorra	Liberia
Anguilla	Liechtenstein
Antigua and Barbuda	Marshall Islands
Aruba	Mauritius
Bahamas	Monaco
Bahrain	Montserrat
Belize	Nauru
Bermuda	Niue
British Virgin Islands	Panama
Cayman Islands	Saint Martin (Dutch part)
Cook Islands	Samoa
Curacao	San Marino
Cyprus	Seychelles
Dominica	St Kitts & Nevis
Gibraltar	St Lucia
Grenada	St Vincent & the Grenadines
Guernsey	Turks and Caicos Islands
Isle of Man	US Virgin Islands
Jersey	Vanuatu
Labuan	

30 Personal services income

Does your income include an individual's personal services income?

Personal services income (PSI) is income that is mainly a reward for an individual's personal efforts or skills, or would mainly be such a reward if it was derived by the individual.

A trust may derive income which includes the PSI of one or more individuals. Examples of PSI include income:
- for the services of a professional practitioner in a sole practice
- derived under a contract which is wholly or principally for the labour or services of an individual
- for the exercise of professional skills by a professional sportsperson or entertainer

- for the exercise of personal expertise by a consultant.

PSI does not include income that is mainly:

- for supplying or selling goods, for example, from retailing, wholesaling or manufacturing
- generated by an income-producing asset, for example, from operating a bulldozer
- for granting a right to use property, for example, the copyright to a computer program
- generated by a business structure, for example, a large accounting firm.

If the trust receives an individual's PSI other than in the course of conducting a personal services business and does not promptly pay it to the individual as salary or wages:

- the net amount of PSI is attributed to the individual and is not assessable to the trustee, and
- certain related expenses are not deductible under the special rules.

Print **X** in the **Yes** box at **N** if the income of the trust includes an individual's PSI. Otherwise, print **X** in the **No** box at **N**.

If you answered **No** at **N**, you do not need to answer any more questions.

If you answered **Yes** at **N**, read on and complete the remaining labels at item **30**

Total amount of PSI included at item 5 income labels

Write at **A** the total amount of income gained by you during the year that is PSI of one or more individuals that you have included at item **5** income labels. At this item, exclude any exempt or non-assessable non-exempt components of the PSI, for example, goods and services tax (GST).

Total amount of PSI included at item 5 income labels

Write at **B** the total amount of expenses against PSI included at item **5** expense labels.

Did you satisfy the results test in respect of any individual?

If you satisfy the results test in respect of any individual, print **X** in the **Yes** box at **C**. Otherwise, print **X** in the **No** box at **C**.

You will meet the results test in an income year if, for at least 75% of the PSI of the individual doing the personal services work, having regard to the custom or work practice when work of that kind is performed:

- the PSI is paid to achieve a result under your contract or agreement
- you provide the tools or equipment necessary (if any) to do the work, and
- you are liable for the cost of rectifying defects in the work performed.

The PSI is considered to be paid to achieve a result when the individual is required to produce a specified result or outcome, and payment is conditional upon that result or outcome being achieved. The essence of the contract or agreement has to be to achieve a result and not just to do the work as required.

Do you hold a personal services business (PSB) determination in respect of any individual?

If you hold a personal services business (PSB) determination in respect of any individual, print **X** in the **Yes** box at **D**; otherwise, print **X** in the **No** box at **D**.

To apply for a personal services business determination, complete a Personal services business determination application.

Did you satisfy the unrelated clients test, employment test or business premises test in respect of any individual?

E1, **E2** and **E3** require information in relation to any individual for whom you did not satisfy the results test or hold a PSB determination, and where each source of their PSI income yielded less than 80% of their total PSI. If 80% or more of the PSI in the income year comes from one client (and their associates), you:

- cannot self-assess whether you meet the unrelated clients test, employment test or business premises test, and
- should not complete **E1**, **E2** and **E3**.

When considering the 80% rule, do not take into account PSI received as an employee or income that is not PSI (for example, investment income or income from the sale of goods or the use of an income-producing asset).

If you are a commission agent your PSI will be treated as coming from each customer provided you meet all of the following conditions:

- You are an agent of the principal but not an employee.
- You receive income from your principal for services that you provide to customers on the principal's behalf.
- At least 75% of that income is performance-based commissions or fees.
- You actively seek other customers to whom you could provide services on the principal's behalf.
- You do not provide any services to the customers, on the principal's behalf, using premises that the principal (or their associate) owns or has a leasehold interest in, unless you use the premises under an agreement entered into at arm's length.

If you meet all of these conditions and, as a consequence, less than 80% of the PSI is treated as coming from each customer, you can self-assess against the unrelated clients test, the employment test and the business premises test. You do not need a determination from the Commissioner to be a personal services business although you may apply for a determination if you are unsure.

For any individual for whom you did not satisfy the results test or hold a PSB determination, and each source of their PSI income yielded less than 80% of their total PSI, indicate whether you satisfied any of the personal services business tests.

Unrelated clients test

If you satisfied the Unrelated clients test print **X** in the box at **E1**.

You will meet the unrelated clients test in the income year if the individual doing the personal services work generates PSI from two or more clients who are not associated with each other or with the individual or with you.

The personal services must also be provided as a direct result of making offers to the public, for example, by advertising. Do not count clients obtained as a result of registering your name with a labour-hire firm, placement agency or similar organisation.

Separate government departments are deemed not to be associates of each other for the purposes of this test.

If you are a commission agent who meets all of the conditions for the special rules, you will pass the unrelated clients test if your services are provided to at least two customers as a direct result of your making offers or invitations to the public on behalf of your principal.

Employment test

If you satisfied the Employment test print **X** in the box at **E2**.

Subject to certain exceptions noted below, you will meet the employment test in the income year if you:

- have employees, engage subcontractors or engage entities that perform at least 20% (by market value) of the principal work, or
- have apprentices for at least half the income year.

'Principal' work is the main work that generates the PSI and does not usually include support work such as secretarial duties.

You can count a spouse or family member who does principal work, but not companies, partnerships or trusts associated with you.

You cannot count any individual whose PSI you receive.

Business premises test

If you satisfied the Business premises test print **X** in the box at **E3**.

You will meet the business premises test if, at all times during the income year, you maintain and use business premises that are:

- mainly used to conduct the work, that is, used for gaining or producing personal income for more than 50% of the time
- used exclusively by you
- physically separate from the private residence of
  - the individual doing the personal services work
  - their associates
  - your associates, and
- physically separate from the business address of your clients or their associates.

The phrase 'at all times during the income year' is taken to mean the whole period during which activities are conducted for the purposes of generating personal services income.

You do not need to maintain and use the same business premises throughout the year but your must satisfy all the above criteria.

Treatment of attributed PSI on your trust tax return

If PSI is attributed to an individual, the income is not assessable to the trust. Include the PSI on the trust tax return as follows:

Include the attributed amount in the amount shown at **A Income reconciliation adjustments** item **5 Reconciliation items**, as calculated in Worksheet 1: Reconciliation statement. The attributed amounts are income subtraction amounts. If the income subtractions exceed the income add backs, the total is a negative amount. If a negative amount, print **L** in the box at the right of **A** on the tax return.

Treatment of net PSI loss on your trust tax return

If an individual can deduct the net PSI loss, the total amount of the deductions to which the trust is entitled is reduced by that amount. Include the PSI loss amounts on the trust tax return as follows:

Include the net PSI loss amounts in the amount shown at **B Expense reconciliation adjustments** item **5 Reconciliation items**, as calculated in Worksheet 1: Reconciliation statement.

For more information on personal services income, see:
- Appendix 7 Personal services income (PSI)
- Personal services income – basic information you need to know
- Personal services income – companies, partnerships and trusts
- Personal services income – avoiding common mistakes

31 Taxation of financial arrangements (TOFA)

The key provisions of the TOFA rules are found in Division 230 of the ITAA 1997, which generally provides for:
- methods of taking into account gains and losses from financial arrangements, being accruals and realisation, fair value, foreign exchange retranslation, hedging, reliance on financial reports and balancing adjustment, and
- the time at which the gains and losses from financial arrangements will be brought to account.

The TOFA rules apply to the following entities:
- authorised deposit-taking institutions, securitisation vehicles and financial sector entities with an aggregated annual turnover of $20 million or more
- managed investment schemes, or entities with a similar status under foreign law relating to corporate regulation with assets of $100 million or more
- any other entity which satisfies one or more of the following
  - an aggregated turnover of $100 million or more
  - assets of $300 million or more
  - financial assets of $100 million or more.

A trust that does not meet these requirements can elect to have the TOFA rules apply to it.

The aggregated turnover tests may mean that the TOFA rules will apply to trusts that do not meet the thresholds in their own right. Aggregated turnover includes the annual turnover of any entity a trust is connected with, or any affiliate of the trust, including overseas entities. Once the TOFA rules apply to a trust, they will continue to apply to that trust, even if its aggregated turnover, value of assets or value of financial assets subsequently falls below the requisite threshold.

There are a number of elections available to trusts under the TOFA rules. Elections under the TOFA rules are irrevocable, and should be carefully considered before being made. For more information, see Making elections under the TOFA rules and the Guide to the taxation of financial arrangements (TOFA) rules.

L Did you make a gain, loss or transitional balancing adjustment from a financial arrangement subject to the TOFA rules?

Print **X** in the appropriate box at **L**.

Print **X** in the **Yes** box only if during the 2012–13 income year the trust:
- made an assessable gain or deductible loss under the TOFA rules (unless it was made only because the trust held a qualifying security), or
- had an assessable or deductible amount from a transitional balancing adjustment as a result of making the transitional election for existing financial arrangements.

Print **X** in the **No** box if during the 2012–13 income year the trust:
- satisfies both of the following
  - did not make an assessable gain or deductible loss under the TOFA rules, and
  - did not have an assessable or deductible amount from a transitional balancing adjustment as a result of making the transitional election for existing financial arrangements

or
- had an assessable gain or deductible loss under the TOFA rules only because the trust held a qualifying security to which the TOFA rules apply.

For more information, see Guide to the taxation of financial arrangements (TOFA) rules.

M Total TOFA gains

Show at **M** the trust’s total assessable TOFA gains from financial arrangements.

N Total TOFA losses

Show at **N** the trust's total deductible TOFA losses from financial arrangements.

O TOFA transitional balancing adjustment

Show at **O** the trust’s transitional balancing adjustment amount for the income year as a result of making the transitional election for existing financial arrangements.

If the transitional balancing adjustment is a deductible amount, print **L** in the box next to **O**.

Working out the trust’s total assessable TOFA gains, total deductible TOFA losses, and TOFA transitional balancing adjustment

Ensure you take into account at **M**, **N** and **O** any amount in relation to a TOFA financial arrangement that you have shown at labels, such as:
- **S Net income or loss from business** item **5**
- **A**, **Z**, **S**, **B**, **R** or **T Partnerships and trusts** item **8**
- **G Interest deductions** item **9**
- **J Gross interest** item **11**

- **K Unfranked dividend amount** item **12**
- **O Other Australian income** item **14**
- **Q Other deductions** item **18**
- **B Gross other assessable foreign source income** item **23**.

You should only take into account an amount once at one of **M**, **N** and **O**.

P TOFA gains from unrealised movements in the value of financial arrangements

Show at **P** the trust's TOFA gains from unrealised movements in the value of financial arrangements. This may include TOFA gains shown at:

- **Other business income** at **G** and **H** item **5**
- **Other assessable foreign source income** item **23**.

Key financial information

32 All current assets

Show at **F** all current assets of the trust including cash on hand, short-term bills receivable, inventories and trade debtors as shown at item **42 Trade debtors**.

33 Total assets

Show at **G** all of the trust assets, including fixed, tangible and intangible assets, and all current assets as shown at item **32 All current assets**.

34 All current liabilities

Show at **I** the total obligations payable by the trust within the coming year; also include the amount shown at item **42 Trade creditors**.

35 Total liabilities

Show at **J** all of the trust liabilities, including other creditors and deferred liabilities such as loans secured by mortgage and long-term loans; also include the amount shown at item **34 All current liabilities**.

Business and professional items

! You must complete the items in this section of the return (**items 36** to **53**) to the extent they apply to the trust. Even trusts which are not carrying on a business should complete the relevant items in this section.

36 Business name of main business

The business name of the main business activity should be consistent from year to year, except in the year of a name change or if it is no longer the main business.

If the business name is legally changed, send written advice of the change to the ATO at the time the change is made. Show the current business name on the tax return.

37 Business address of main business

Show the street address of the main business. This is the place where most of the business decisions are made. Ensure that you include the postcode at **A**.

Items **39** to **41** below reflect amounts that have been calculated for tax purposes.

38 Opening stock

Show at **C** the total value of all trading stock on hand at the beginning of the income year or accounting period for which the trust tax return is being prepared. The amount shown by the trust at **C** is the calculated value for income tax purposes under section 70–40, or for small business entities using the simplified trading stock rules (subsection 328-295(1) of the ITAA 1997). The opening value of an item of stock must equal its closing value in the previous year. If you did not have any trading stock in the previous year, the value of trading stock at the start of the year is zero. This might occur in the case of a new business or in the first year you have trading stock.

Include motor vehicle floor plan stock and work in progress of manufactured goods.

Do not include any amount that represents opening stock of a business that started operations during the income year. Show this amount in Cost of sales at **E** item **5**.

39 Purchases and other costs

Show at **B** the cost of direct materials used for manufacture, sale or exchange in deriving the gross proceeds or earnings of the business.

Former STS taxpayers still using the STS accounting method

If the trust is eligible and has chosen to continue using the STS accounting method, only show at **B** purchases and other costs which the trust has paid: see appendix 14.

40 Closing stock

If the trust is a small business entity choosing to use the simplified trading stock rules, see the information for small business entities below. Otherwise, go to All other businesses.

Small business entities

Small business entities only need to account for changes in the value of trading stock if the value of stock on hand at the start of the income year and a reasonable estimate of the value of stock on hand at the end of the income year varies by more than $5,000.

For more information on reasonable estimates, see Simplified trading stock rules

Small business entities who wish to do so can still conduct a stocktake and account for changes in the value of trading stock.

If the difference between the value of opening stock and a reasonable estimate of closing stock is:

- more than $5,000 the trust must account for the change in the value of trading stock – go to **step 2**
- $5,000 or less, go to **step 1**.

Step 1

If the difference referred to above is $5,000 or less and the trust chooses not to account for this difference, the closing stock value at **D** is the same as the value at **C** item **38**. Do not put the reasonable estimate at **D**.

Print in the CODE box at the right of **D** the code letter from **table 7** that matches the code the trust used to value closing stock in the previous year.

Table 7	
Code	**Valuation method**
C	Cost
M	Market selling value
R	Replacement value

If this is the trust's first year in business the value of the closing stock will be zero. Print **C** in the CODE box.

Step 2

If the difference referred to above is more than $5,000 or the trust chooses to account for the difference in trading stock, the closing stock values must be brought to account under section 70-35 of the ITAA 1997. See the information for All other businesses for instructions on how to calculate the value of closing stock.

The trust must include in the closing stock value at **D** the value of all stock on hand, regardless of whether the trust has paid for the stock.

All other businesses

Show at **D** the total value of all trading stock on hand at the end of the income year or accounting period for which the trust tax return is being prepared. The amount at **D** is the value calculated for income tax purposes under section 70-45 of the ITAA 1997.

If the trust is registered for GST, the value of closing stock (other than items the supply of which was not a taxable supply) should not include an amount equal to the input tax credit that would arise if the trust had acquired the item solely for business purposes at the end of the income year. Input tax credits do not arise for some items of trading stock, such as shares.

Include motor vehicle floor plan stock and work in progress of manufactured goods.

Do not include any amount for closing stock of a business that ceased operations during the income year – instead, show this amount at item **5 Total business income**.

Print in the CODE box, the code from table 7 indicating the method used to value closing stock for income tax purposes. If you use more than one method, use the code for the method representing the greatest value.

You can use different methods to value the same item of trading stock in different income years, and you can value similar items using different methods in the same income year.

However, the opening value of an item in a particular income year must equal the closing value for that item in the previous income year. The trust cannot reduce the value of stock on hand by creating reserves to offset falls in the value of stock or any other factors. Keep records showing how each item was valued.

The trust may elect to value an item of trading stock below the lowest value calculated by any of these methods because of obsolescence or other special circumstances. The value in the election must be reasonable. If you elect to value an item of trading stock below cost, market selling value and replacement value, see item 47 Trading stock election.

If you include incorrect trading stock information on the tax return, advise us by submitting a full statement of the facts, accompanied by a reconciliation of the value of stock as returned for each income year with the values permissible under the law.

Trusts engaged in manufacturing include the value of partly manufactured goods as part of their stock and materials on hand at the end of the income year.

For information on the circumstances in which packaging items held by a manufacturer, wholesaler or retailer are 'trading stock' as defined in section 70-10 of the ITAA 1997, see TR 98/7 *Income tax: whether packaging items (ie, containers, labels, etc) held by a manufacturer, wholesaler or retailer are trading stock.*

Items **41** and **42** below reflect amounts calculated for accounting purposes.

41 Trade debtors

Show at **E** the total amounts owing to the trust at year end for goods and services provided during the income year – that is, current trade debtors. Include this amount at item **32 All current assets**.

42 Trade creditors

Show at **H** the total amounts owed by the trust at year end for goods and services received during the income year – that is, current trade creditors. Include this amount at item **34 All current liabilities**.

Items **44** to **49** below reflect amounts that have been calculated for tax purposes.

43 Total salary and wage expenses

Show at **L** the total salary, wages and other labour costs actually paid or payable to people employed in the trust's business. However, exclude those costs for private domestic assistance or which form part of capital expenditure, as they are not deductible.

You can only claim a deduction for a payment made or liability incurred by a trust to an associated person, principal, agent, related entity or associate entity if it is incurred in producing assessable income and the ATO is satisfied that the amount is reasonable.

These expenses include any salary and wage component shown in **Cost of sales** at **E** item **5**. This includes:

- allowances
- bonuses
- casual labour
- retainers and commissions paid to people who received a retainer
- workers' compensation paid through the payroll
- direct and indirect labour costs
- directors' fees
- holiday pay
- locums
- long service leave
- lump sum payments
- other employee benefits
- overtime
- payments under an incentive or profit-sharing scheme
- retiring allowances
- sick pay.

Include here and at item **44 Payments to associated persons** any salary or wages paid to an associated person, principal, agent, related entity or associate entity.

However, these expenses do not include:

- agency fees
- contract payments
- sub-contract payments
- service fees
- superannuation
- management fees
- consultant fees.

Print in the CODE box the code from **table 8** that shows where you predominantly reported salary and wage expenses.

Table 8	
Salary and wages wholly or predominantly reported in	**Code**
the expense component of **Cost of sales**	C
All other expenses	A

the expense component of both **Cost of sales** and **All other expenses**	B
neither **Cost of sales** nor **All other expenses**	O

44 Payments to associated persons

Show at **M** the amounts, including salaries, wages, commissions, superannuation contributions or allowances, paid to the trustee's relatives or partnerships in which the relative of the trustee is a partner.

Also include the amounts of salaries and wages paid to an associated person, relative, principal, agent, related entity or associate entity at item **43 Total salary and wage expenses**.

Record keeping

Excessive payments to a relative or other related entity may not be deductible, see section 26-35 of the ITAA 1997. Keep a record of the following to establish the reasonableness of remuneration:

- full name of relative or other related entity
- relationship
- age, if under 18 years old
- nature of duties performed
- hours worked
- total remuneration
- salaries or wages claimed as deductions
- other amounts paid, for example retiring gratuities, bonuses and commissions.

45 Fringe benefit employee contributions

Show at **T** all payments the trust has received from recipients of fringe benefits.

Employee contributions form part of the employer's or associate's assessable income in situations where employees make payments for fringe benefits they have received.

46 Unpaid present entitlement to a private company

Show at **Y** any amounts of the income of the trust from this year or a previous year of income to which a private company is entitled, and that remain unpaid by the 'lodgment day'. If the amount is greater than zero, print **D** in the CODE box at the right of **Y** where, during the income year, the trustee of the trust estate:

- made a payment that is attributable to an unrealised gain that discharged or reduced a present entitlement
- made a loan
- forgave a debt

in favour of a shareholder (or an associate of a shareholder) of a private company with the unpaid present entitlement. Print **X** in the CODE box at the right of **Y** if none of the above transactions took place.

Lodgment day

The lodgment day is the earlier of the due date for lodgment and date of lodgment of the trust's tax return for the income year in which the payment, loan or debt forgiveness occurred.

47 Trading stock election

The trust may elect to value an item of trading stock below the lowest value of cost, market selling value, or replacement value, because of obsolescence or any other special circumstances. The value it elects must be reasonable, for more information on trading stock valuations where obsolescence or other special circumstances exist see TR 93/23 *Income tax: valuation of trading stock subject to obsolescence or other special circumstances*.

If the trust makes an election, print **X** in the **Yes** box at this item. Otherwise, print **X** in the **No** box.

48 Capital allowances

Small business entities

Broadly, a small business entity is a business with an aggregated turnover of less than $2 million.

Do not include information about depreciating assets that are subject to the small business entity simplified depreciation rules at item **48**. Small business entities using the small business entity simplified depreciation rules should include relevant amounts at item **49 Small business entity simplified depreciation**. See Concessions for small business entities (NAT 71874) for information about these rules.

Depreciating assets first deducted in this income year

Intangible depreciating assets first deducted

The following intangible assets are regarded as depreciating assets (providing they are not trading stock):
- certain items of intellectual property, such as patents, registered designs, copyrights and certain types of licences
- computer software, or a right to use computer software, that the partnership acquires, develops or has someone else develop for its own use (that is, in-house software)
- mining, quarrying or prospecting rights and information
- spectrum licences
- datacasting transmitter licences
- certain indefeasible rights to use telecommunications cable systems (IRUs)
- some access rights to telecommunications sites.

A depreciating asset that the trust holds starts to decline in value from the time the trust uses it (or installs it ready for use) for any purpose, including a private purpose. However, the trust can only claim a deduction for the decline in value to the extent it uses the asset for a taxable purpose, such as for producing assessable income.

Show at **A** the cost of all intangible depreciating assets for which the trust is claiming a deduction for decline in value for the first time. If the trust has allocated any intangible depreciating assets with a cost of less than $1,000 to a low-value pool for the income year, include the cost of those assets at **A** – do not reduce the cost for estimated non-taxable use.

Do not include expenditure on in-house software which has been allocated to a software development pool at **A**.

For more information on decline in value, cost, low-value pools, in-house software and software-development pools, see the Guide to depreciating assets 2013.

Other depreciating assets first deducted

A depreciating asset the trust holds starts to decline in value from the time the trust uses it (or installs it ready for use) for any purpose. However, the trust can only claim a deduction for the decline in value to the extent it uses the asset for a taxable purpose, such as for producing assessable income.

Show at **B** the cost of all depreciating assets (other than intangible depreciating assets) for which the trust is claiming a deduction for the decline in value for the first time. If any assets (other than intangible depreciating assets) costing less than $1,000 have been allocated to a low-value pool for the income year, also include the cost of those assets at **B** – do not reduce the cost for any estimated non-taxable use.

For information on decline in value, cost and low-value pools, see the Guide to depreciating assets 2013.

Self-assessment of effective life

For most depreciating assets, you can choose to:
- work out the effective life yourself (self-assess), or
- use an effective life determined by the Commissioner.

If you have adopted the Commissioner's effective life determination for all your depreciating assets print **X** in the **No** box at **C**.

If you have self-assessed the effective life of any of your depreciating assets, print **X** in the **Yes** box at **C**.

For all depreciating assets

Recalculation of effective life

You may recalculate the effective life of assets in certain circumstances if the effective life you have been using is no longer accurate. There are also circumstances where you must recalculate the effective life of a depreciating asset.

If you have not recalculated the effective life of any of your depreciating assets in this income year, print **X** in the **No** box at **D**.

If you have recalculated the effective life of any of your depreciating assets this income year, print **X** in the **Yes** box at **D**.

Total adjustable values at end of income year

At **E**, write the total of the adjustable values of your depreciating assets as at the end of the income year.

If the trust has allocated any assets with a cost of less than $1,000 to a low-value pool, do not include the adjustable values of those assets at **E Total adjustable values at end of income year**.

Assessable balancing adjustments on the disposal of intangible depreciating assets

At **F**, write the total assessable income you have from balancing adjustment events on the disposal of intangible depreciating assets that occurred this income year (this type of assessable income may arise if, for example, you disposed of an intangible depreciating asset for more than its adjustable value). If you do not have any assessable balancing adjustment amounts for intangible assets this year, leave this label blank.

If the trust has allocated any assets with a cost of less than $1,000 to a low-value pool, **do not** include the assessable balancing adjustments for these assets at **F Assessable balancing adjustments on the disposal of intangible depreciating assets**.

Deductible balancing adjustments on the disposal of intangible depreciating assets

At **G**, write the total deductible amount you have from balancing adjustment events on the disposal of intangible depreciating assets that occurred this income year (this type of deduction may arise if, for example, you disposed of an intangible depreciating asset for less than its adjustable value). If you do not have any deductible balancing adjustment amounts for intangible assets this year, leave this label blank.

If the trust has allocated any assets with a cost of less than $1,000 to a low-value pool, **do not** include the assessable balancing adjustments for these assets at **G Deductible balancing adjustments on the disposal of intangible depreciating assets**.

Termination value of intangible depreciating assets

Show at **H** the termination value of each balancing adjustment event occurring for intangible depreciating assets to which the uniform capital allowances rules applied, including assets allocated to a low-value pool.

Do not show at **H** any consideration received during the income year for in-house software for which the trust has allocated expenditure to a software- development pool.

A balancing adjustment event occurs if the trust stops holding or using a depreciating asset or decides not to use it in the future – for example, assets sold, lost or destroyed. Generally, the termination value is the amount the trust receives or is deemed to receive for the balancing adjustment event. It includes the market value of any non-cash benefits, such as goods and services the trust receives for the asset.

For more information on balancing adjustment events, termination value, in-house software and software-development pools, see the Guide to depreciating assets 2013.

Termination value of other depreciating assets

Show at **I** the termination value of each balancing adjustment event occurring for depreciating assets, including assets allocated to a low-value pool.

Do not show at **I** any consideration received during the income year for:
- depreciating assets allocated in a prior year to a general small business pool or long-life small business pool
- intangible depreciating assets
- buildings or structures for which a deduction is available under the capital works provisions
- assets used in research and development (R&D) activities, or
- assets falling within the provisions relating to investments in Australian films.

A balancing adjustment event occurs if the trust stops holding or using a depreciating asset or decides not to use it in the future – for example, assets sold, lost or destroyed. Generally, the termination value is the amount the trust receives or is deemed to receive for the balancing adjustment event. It includes the market value of any non-cash benefits, such as goods and services the trust receives for the asset.

For more information on balancing adjustment events and termination value, see the Guide to depreciating assets 2013.

Deduction for project pools

Show at **J** the trust's deductions for project pools. For more information, see appendix 6.

For more information on project pools, see the Guide to depreciating assets 2013.

Section 40-880 deduction

Show at **K** the total of the trust's deductions allowable under section 40-880 of the ITAA 1997. For more information, see appendix 6.

For more information on business related costs – section 40-880 deductions, see the Guide to depreciating assets 2013.

Landcare operations and deduction for decline in value of water facility

Show at **L** the deduction available to the trust for landcare operations and for the decline in value of water facilities, for more information see appendix 6.

49 Small business entity simplified depreciation

Only complete this item if the trust is a small business entity using the simplified depreciation rules.

To complete this item, use the amounts calculated for small business entity depreciation deductions at **K** item **5**. Show at:
- **A D**e**duction for certain assets (costing less than $6,500)**, the total amount claimed relating to these assets
- **B Deduction for general small business pool assets**, the total amount claimed relating to the general small business pool.

50 National rental affordability scheme tax offset

The National rental affordability scheme (NRAS) is designed to encourage large-scale investment in affordable housing. The NRAS offers incentives to providers of new dwellings on the condition that they are rented to low and moderate income households at 20% below market rates. Entities participating in the NRAS may claim their share of the refundable tax offset in their tax return.

Refundable NRAS tax offsets may flow indirectly to certain beneficiaries of a trust or to the trustee of the trust provided the Secretary of the Department of Families, Housing, Community Services and Indigenous Affairs has issued the trust (or a trust through which their interest is ultimately obtained) a certificate under NRAS and the income year of that trust begins in the NRAS year to which the certificate relates.

The amount of the tax offset is the amount stated in the certificate shared between the beneficiaries of the trust (or the trustee) according to their share of the NRAS rent of the trust for the NRAS year and the total NRAS rent derived by rental dwellings covered by the certificate for the relevant income year.

If a trustee is assessed under section 98 of the ITAA 1936 on behalf of a beneficiary who is entitled to a share of the NRAS rent, then the trustee is entitled to that percentage share of the NRAS offset.

If the trustee is assessed under section 99 or 99A of the ITAA 1936, the trustee may also be entitled to a share of the NRAS offset.

In circumstances where the trust has no net income for the year, for the purposes of the NRAS provisions, no beneficiary can receive a share of NRAS rent indirectly and, as a result, no NRAS tax offset can flow indirectly the beneficiaries. In these circumstances, the trustee may be able to claim the refundable tax offset.

Show at **F** the total NRAS tax offset available to the beneficiaries or trustee (including any NRAS tax offset received indirectly through a partnership or other trust) for the income year.

The beneficiaries and trustee's share of the NRAS tax offset must be shown at this item and at item **54 Statement of distribution**.

The amount of the trust's tax offset is the amount stated in the certificate issued by the Secretary of the Department of Families, Housing, Community Services and Indigenous Affairs. However, if the Secretary issues the entity with an amended certificate under the National Rental Affordability Scheme Act 2008, the amount of the trust's tax offset is the amount stated in the amended certificate.

51 Other refundable tax offsets

Conservation tillage refundable tax offset

The government has introduced a refundable tax offset for purchase of an eligible no-till seeder ('eligible seeder') used in conservation tillage farming practices. Qualifying primary producers may be entitled to a refundable tax offset of 15% of the cost of an eligible seeder. The refundable tax offset is only available for eligible seeders installed ready for use between 1 July 2012 and 30 June 2015.

To be entitled to claim the refundable tax offset, the primary producer must hold a Research Participation Certificate for the relevant income year. These certificates are issued by the Department of Agriculture, Fisheries and Forestry.

A qualifying trustee can claim the conservation tillage refundable tax offset by completing this label. The offset will be used to reduce any tax otherwise payable by the trustee. Any excess tax offset is refundable.

Show at **G** the total of the offset, which is the total cost of the asset multiplied by 15% and print **C** in the code box.

For more information see Conservation tillage refundable tax offset.

52 Medicare levy reduction or exemption

A trustee needs to complete this item only if all of the following conditions apply:

- The trustee is liable to be assessed on a share of the net income of the trust because a beneficiary is presently entitled to a share of the income of the trust (or specifically entitled to an amount of capital gains or franked distributions) but under a legal disability.
- That amount of the net income of the trust upon which the trustee is liable to be assessed in respect of a particular beneficiary is more than the relevant threshold amount for the Medicare levy as set out in part A of question M1 in *Individual tax return instructions 2013*
- That beneficiary qualifies for an exemption or reduction in the Medicare levy under one of the categories set out in question M1 of *Individual tax return instructions 2013*.

If there is more than one such beneficiary, provide a statement on a separate sheet of paper setting out the information required at this item for each additional beneficiary. Attach the statement to the tax return and print **X** in the **Yes** box at **Have you attached any 'other attachments'?** at the top of page 1 of the tax return.

Spouse's 2012–13 taxable income

Show at **A** the taxable income of the beneficiary's spouse for the 2012–13 income year. If the beneficiary had no spouse or had a spouse who had no taxable income, write zero (**0**) at **A**.

Number of dependent children and students

Show at **B** the number of the beneficiary's dependent children and students, if any.

C and D

For details of the various Medicare levy exemption categories, see question M1 in *Individual tax return instructions 2013.*

Full 1.5% levy exemption – number of days

Show at **C** the number of days in the 2012–13 income year for which the beneficiary was entitled to the full Medicare levy exemption. If you have completed **C** and the beneficiary has been issued with a Medicare exemption certificate from the Medicare Levy Exemption Certification Unit of Medicare Australia showing that the beneficiary is not entitled to any Medicare benefits, print **C** in the CODE box.

Half 1.5% levy exemption – number of days

Show at **D** the number of days during the 2012–13 income year for which the beneficiary was entitled to a half Medicare levy exemption.

Medicare levy on net income assessed to the trustee under sections 99 or 99A of the ITAA 36

If a trustee is liable to be assessed on that part of the net income of a trust (other than a trust of a deceased person) under either sections 99 or 99A of the ITAA 1936 the trustee may need to pay the Medicare levy.

If a trustee is assessed on part or all of the net income of a trust under either sections 99 or 99A of the ITAA 36 and is liable to pay tax on all of the income so assessed at the top marginal tax rate, the trustee must pay the Medicare levy at 1.5% of net income.

In other situations, if the net income assessed to the trustee is:
- $416 or less, no Medicare levy is payable
- $417 to $490, the Medicare levy is 10% of the excess over $416
- more than $490, the Medicare levy is 1.5% of the net income assessed to the trustee.

For a trust of a deceased person, no Medicare levy is payable on that part of the net income of the trust that is assessed under either sections 99 or 99A of the ITAA 1936.

Medicare levy surcharge

If the beneficiary's share of the trust net income to which a trustee is assessed under section 98 exceeds either $84,000 (if single) or $168,000 for the family surcharge threshold (plus $1500 for each dependent child after the first) the trustee may be liable for the Medicare levy surcharge (MLS). See question M2 in *Individual tax return instructions 2013*.

Provide a statement on a separate sheet of paper showing the:
- trust's name
- trust's TFN
- beneficiary's name
- beneficiary's TFN
- beneficiary's share of the net income of the trust estate
- number of days not liable for MLS
- full name of beneficiary's spouse, if applicable
- spouse's income for (Medicare levy) surcharge purposes, if applicable
- number of dependent children, if applicable
- health insurer identification (ID) code, if applicable
- membership number, if applicable.

Sign the statement, attach it to the tax return and print **X** in the **Yes** box at **Have you attached any 'other attachments'?** at the top of page 1 of the tax return.

The definition of dependant for the purposes of MLS differs from the definition of dependant for other tax purposes (such as dependent spouse tax offset).

The beneficiary's and their spouse's income for (Medicare levy) purposes must be calculated ignoring the exemption under section 271-105 of Schedule 2F to the ITAA 1936 for distributions on which family trust distribution tax (FTDT) has been paid. For more information about the circumstances in which FTDT is payable, see Family trust distribution tax.

Changes to MLS rate

From 1 July 2012, the amount of MLS payable may increase depending on the beneficiary's income for (Medicare levy) surcharge purposes.

The rates are detailed in question M2 in *Individual tax return instructions 2013*.

The following table shows the MLS thresholds and rates, based on income for (Medicare levy) surcharge purposes which apply from 1 July 2012:

	Unchanged	Tier 1	Tier 2	Tier 3
Singles	$0 - $84,000	$84,001 - $97,000	$97,001 - $130,000	$130,001 and above
Families*	$0 - $168,000	$168,001 - $194,000	$194,001 - $260,000	$260,001 and above
Medicare levy surcharge				
Rates	0%	1%	1.25%	1.5%

* The families' threshold is increased by $1,500 for each dependent child after the first. Families include couples and single parent families.

Income for (Medicare levy) surcharge purposes is only used to determine whether the beneficiary is liable to pay the MLS. It is not used to calculate the surcharge amount.

The MLS is only levied on the total of the beneficiary's taxable income (including the net amount on which family trust distribution tax has been paid, but not including – if the beneficiary is aged 55 to 59 years old – any taxed element of a super lump sum, other than a death benefit, they received that does not exceed the low rate cap) and total reportable fringe benefits amount.

For more information about income for surcharge purposes and the components used to calculate it, see Income for (Medicare levy) surcharge purposes.

53 Income of the trust estate

Show at **A** the 'income of the trust estate' for trust law purposes. This is the income of the trust estate as that expression is found in Division 6 of the ITAA 1936 and related provisions. This is the total distributable income of the trust that the trustee determine is legally available for distribution to trust beneficiaries in the income year.

This calculation may depend on the terms of the trust and general trust law principles: you may need to carefully consider the trust deed, the trust accounts and relevant resolutions to determine what the trust's distributable income is. Because this amount is determined in accordance with trust law principles and where applicable, the terms of the particular trust, it may be different to the accounting income of the trust or the net (taxable) income of the trust for tax purposes.

If the income of the trust estate is a loss amount, then enter '**0**' at **A**.

Subject to the application of Division 6E of the ITAA 1936 and the provisions relating to the streaming of capital gains and franked distributions, Division 6 of the ITAA 1936 broadly operates to assess beneficiaries who are presently entitled to a share of the 'income of the trust estate' and not under a legal disability on the same share of the net (taxable) income of the trust. This is commonly referred to as the 'proportionate approach' to trust taxation. Division 6 broadly operates in a similar manner to assess a trustee in respect of certain presently entitled beneficiaries who are under a legal disability or who were non-resident at year end. The balance of net (taxable) income not assessed to any beneficiary is generally assessed to the trustee.

For further information about present entitlement, the application of Division 6E and the provisions relating to streaming of franked distributions, read Is a beneficiary presently entitled to a share of the income of the trust estate?

A beneficiary who is presently entitled to a share of the income of the trust estate shown here at **A** item **53** will have an amount recorded at **W** item **54 Statement of distribution**.

Further guidance on the meaning of 'income of the trust estate' and the 'proportionate approach' to trust taxation

Bamford decision impact statement (DIS)

The 2010 High Court of Australia case of *Commissioner of Taxation v. Bamford* clarified the meaning of 'income of the trust estate' and 'share of income'. In response to the judgment the ATO released a decision impact statement. The key propositions contained in the DIS include:

- the income of a trust estate for trust law purposes and its income for tax purposes are two different subject matters which do not necessarily correspond
- in subsection 97(1) of the ITAA 1936 'income of the trust estate' takes its meaning from the general law of trusts and not from taxation law
- under the general law of trusts the concept of 'income' is governed by a set of rules designed to ensure that trustees fairly apportion the receipts and outgoings of a period between those entitled to income and those with an interest in capital
- the rules of apportionment adopted by the general law of trusts take the form of presumptions about whether particular receipts or outgoings constitute income or capital – the trust law presumptions can be displaced by express provision in the trust deed
- the apportionment of receipts and outgoings forms part of the processes in trust administration, whereby the 'surplus or distributable income' to which income beneficiaries may become presently entitled in respect of 'distinct year[s] of income' is ascertained (the 'distributable income').

TR 2012/D1

Draft Taxation Ruling 2012/D1 *Income tax: meaning of 'income of the trust estate' in Division 6 of Part III of the Income Tax Assessment Act 1936 and related provisions* was released on 28 March 2012. The draft ruling explains that the income of the trust estate is a reference to the income for trust purposes that a beneficiary could be made presently entitled to or a trustee could accumulate. This ruling may assist you in completing **A** item **53** and **W** at item **54**.

The ruling is in draft form and while it sets out the Commissioner's preferred view, it also contains alternative views which could, in appropriate circumstances, support a reasonably arguable position in the context of penalties. Under self-assessment, you can follow the meaning as set out in the ruling or, if you disagree with aspects of that ruling, you can apply what you understand the term to mean for the purpose of present entitlement and completing the items. What you show at **A** item **53** and **W** at item **54** should be your honest determination of what the trust's distributable income is, and each relevant beneficiary's entitlement to that income by year end.

If you choose to calculate the trust's distributable income based on one of the alternative views in TR 2012/D1, for example, according to a so-called 'income equalisation clause', this income is the amount you include at **A** item **53**. Even if the Commissioner later takes the view that the trust's distributable income is a different amount, you will not have made an error in your completion of this label.

TD 2012/22

Further explanation of the 'proportionate approach' to trust taxation in Division 6 of the ITAA 1936 can be found in Taxation Determination TD 2012/22 *Income tax: for the purposes of paragraph 97(1)(a) of the Income Tax Assessment Act 1936 (ITAA 1936) is a beneficiary's share of the net income of a trust estate worked out by reference to the proportion of the income of the trust estate to which the beneficiary is presently entitled?*

The TD contains practical examples which explain the relevance of the trust deed and the wording of the trustee resolution to the outcome which will arise under the proportionate approach.

For more information see,
- Bamford Decision Impact Statement
- Draft Taxation Ruling TR 2012/D1 *Income tax: meaning of 'income of the trust estate' in Division 6 of Part III of the Income Tax Assessment Act 1936 and related provisions*
- Taxation Determination TD 2012/22 *Income tax: for the purposes of paragraph 97(1)(a) of the Income Tax Assessment Act 1936 (ITAA 1936) is a beneficiary's share of the net income of a trust estate worked out by reference to the proportion of the income of the trust estate to which the beneficiary is presently entitled?*

54 Statements of distribution

The information disclosed in the statement of distribution will need to be provided to each beneficiary to whom that information relates to allow them to complete their own tax return.

A trustee who needs to provide an annual report (under the trustee beneficiary (TB) rules), or annual trustee payment report (under the TFN withholding rules for closely held trusts) can do so by completing in full the details, including identifying information of beneficiaries, in the statement of distribution.

If required, the Annual TFN withholding report is lodged separately by either ELS or paper. The transitional arrangements whereby the TFN and details provided on the 2009–10 trust tax return could be taken as a TFN report for the 2010–11 income year, have concluded.

Before completing the statement of distribution, see appendix 12.

Failure to make a correct TB statement may result in liability for trustee beneficiary non-disclosure tax (TBNT), currently imposed at the rate of 46.5%.

Is a beneficiary presently entitled to a share of the income of the trust estate?

The way the net income of a trust is taxed will depend on whether there are beneficiaries presently entitled to a share of the income of a trust estate and whether the trust has derived capital gains or franked distributions which the trustee has 'streamed' to specific beneficiaries. In the absence of the trustee making certain beneficiaries specifically entitled to amounts of capital gains or franked distributions, a resident beneficiary who is presently entitled to a share of the income of the trust estate (for trust purposes) and is not under a legal disability is assessed on the same percentage share of the net income (for tax purposes) of the trust.

There are a number of steps in determining whether a beneficiary is presently entitled to a share of the income of the trust.

Step 1 – Calculate the income of the trust available for distribution

Determine the total income of the trust that was legally available for distribution to trust beneficiaries in the income year (the 'distributable income'). This is the amount at **A** item **53**.

Step 2 – Determine the beneficiary's entitlement to distributable income

Determine the amount of the trust's distributable income that the beneficiary was presently entitled at any time during the year, even if it has been paid or applied on their behalf. A beneficiary's entitlement to income may be prescribed by the deed, or it may depend on the exercise of a trustee's discretion.

A beneficiary will be deemed to be presently entitled to the income of a trust estate if they have an 'indefeasible vested interest' in that income. An indefeasible interest is simply one that cannot be defeased or brought to an end or varied: for example, it is not able to be varied by the exercise of a power by the trustee or another person. A vested interest is one that presently exists. However, it can be either a present right or one that can be enjoyed in the future.

The principal beneficiary of a special disability trust is considered to be presently entitled to all of the net income of the trust.

Step 3 – Calculate the beneficiary's percentage share of the distributable income

Convert each beneficiary's entitlement to the distributable income to a percentage share of the total distributable income. This percentage share is relevant in working out the amount of the trust's net income (for tax purposes) that is assessed to a beneficiary (or to the trustee on the beneficiary's behalf where the beneficiary is under a legal disability or is a non-resident at the end of the income year). It is also relevant to the allocation of certain types of income, tax credits and other trust amounts to beneficiaries.

A beneficiary will also be taken to be presently entitled to any income they are paid or that is applied on their behalf, at the discretion of the trustee.

Law changes applicable from the 2010–11 income year allow the streaming of franked distributions and capital gains to 'specifically entitled' beneficiaries for tax purposes.

Step 4 – Apply relevant adjustments

Law changes applicable from the 2010–11 income year allow the streaming of franked distributions and capital gains to beneficiaries for tax purposes. Broadly, beneficiaries who are made 'specifically entitled' to the trust's capital gains will be taken to have made capital gains referable to so much of those gains as are included in the trust's net income (with appropriate adjustments for any CGT discounts or concessions). Beneficiaries who are made 'specifically entitled' to the trust's franked distributions will be assessed on so much of those distributions as are included in the trust's net income, as well as on any corresponding franking credits.

In these circumstances, to work how much of the balance of the trust's net income for tax purposes (that is, excluding capital gains and franked distributions that any entity is specifically entitled to) is assessed to relevant beneficiaries or the trustee, in a practical sense the trustee will generally need to use the beneficiaries (or trustee's) 'adjusted Division 6 percentage' share instead of their percentage share of distributable income calculated at step 3 above. The adjusted Division 6 percentage is broadly the income of the trust estate to which a beneficiary is presently entitled, ignoring any franked distributions and capital gains to which they are specifically entitled, divided by the income of the trust calculated, on the assumption that it excludes any capital gains or franked distributions to which **any entity** is specifically entitled. For a trustee, if the sum of the adjusted Division 6 percentage of all beneficiaries is less than 100%, the difference is the trustee's adjusted Division 6 percentage.

These law changes do not apply to managed investment trusts unless their trustees choose for them to apply.

Trusts that are not subject to the new law or that are not in receipt of franked distributions or capital gains during the income year will not have to calculate an 'adjusted Division 6 percentage' and instead will just use each beneficiary's percentage share of distributable income calculated above.

Similarly, for trusts in receipt of capital gains or franked distributions, if no beneficiaries (or the trustee) are specifically entitled to such amounts, the two percentage shares will be the same.

These adjustments can only apply if total net income of the trust for tax purposes is greater than zero.

For more information about these changes, refer to: Interim changes to the taxation of trusts

Is there income of the trust estate to which no beneficiary is presently entitled?

Include at the end of item **54** at **Income to which no beneficiary is presently entitled** that part of the net (taxable) income of the trust at item **26 Total net income or loss** that has not been assessed to either

- a beneficiary
- the trustee on behalf of a beneficiary who is presently entitled to a share of the income of the trust but is either
  - not a resident at the end of the income year
  - under a legal disability.

Generally, to work out the amount to record at **A**, **B**, **U**, **F**, **G** and **H** at the end of item **54**, convert the amount of the trust's distributable income to which no beneficiary is presently entitled as a percentage of the total distributable income, and multiply this result by the component of the trust's net income that relates to each entry.

As a result of the legislative changes referred to above, if the trust has beneficiaries (or the trustee) that are 'specifically entitled' to amounts of capital gains or franked distributions, the amount recorded at **A**, **B**, **U**, **F**, **G** and **H** at the end of item **54** will need to be calculated having regard to the 'adjusted Division 6 percentage' share of the income of the trust.

For more information on these changes, refer to: Interim changes to the taxation of trusts. The trustee also prints **X** in the **Yes** box at **Is any tax payable by the trustee?** on page 2 of the trust tax return.

The trustee is assessable under section 99A of the ITAA 1936 and is liable to pay tax at the highest marginal rate on that part of the net income of the trust that has not been assessed to a beneficiary or to the trustee on a beneficiary's behalf. The applicable tax rate is the highest marginal rate of tax for resident individuals.

However, section 99A of the ITAA 1936 will not apply if the Commissioner thinks it would be unreasonable for the special rate of tax to apply to the net income of a trust estate that:

- resulted from the will or intestacy of a deceased person
- consists of property either of a bankrupt vested in the official receiver in bankruptcy or that is being administered under Part XI of the *Bankruptcy Act 1966* (as amended).
- consists of property that was transferred to the trustee for the benefit of the beneficiary
  - by way of, or in satisfaction of a claim for, damages for loss of parental support, personal injury, disease, or physical or mental impairment
  - by way of workers or criminal injury compensation
  - directly as a result of the death of a person and from the proceeds of a life assurance policy, a superannuation fund or an employer of the deceased person

- out of a public fund established and maintained exclusively for the relief of persons in necessitous circumstances
- as a result of a family breakdown.

Where the Commissioner exercises his discretion that it would be inappropriate for section 99A to apply to the trust for an income year, the trustee will pay tax at concessional rates.

For deceased estates that are resident trust estates and in respect of which the Commissioner has exercised his discretion, the general individual rates apply for the year the deceased died and the following two years. The trustee also has the benefit of the full tax-free threshold of $18,200. For the fourth and subsequent years, different progressive rates apply as shown in table 9.

For other resident trust estates in respect of which the Commissioner has exercised his discretion to not apply section 99A in assessing the trustee, the concessional rates shown in **table 9 also apply**.

Table 9		
Amount of trust net income assessable to trustee ($)	Tax on column 1 ($)	% on excess (marginal rate)
416	Nil	50
670	127.30	19*
37,000	7,030	32.5
80,000	21,005	37
180,000	58,005	45

*Income from $670 to $37,000 is taxed at a flat rate of 19%.

If you would like the Commissioner's discretion to be exercised, submit full details in support of the request. Also provide:

1. details of the balance sheet capital accounts

2. if shares are held in private companies and special rights attach directly or indirectly to those shares, a statement showing
   - the name of the company
   - the class and paid-up value of the shares
   - details of the special rights
   - whether those rights have been exercised during the year

3. if a loan has been made to or by the trust, a statement showing the nature of the debt, the terms of the loan and the borrower's or lender's full name, address and family relationship, if any, to the beneficiaries
   - this information need not be furnished for public securities, debentures in public companies and loans made in normal commercial transactions where the parties are at arm's length
   - if relatives of the beneficiaries or other persons not at arm's length have made loans to a private company in which the trust holds shares, or to a partnership in which the trustee is a partner, full details must also be given for such loans

   - the names of any other trusts to which the person has contributed in the ways mentioned or in which the beneficiaries of the trust lodging this tax return are interested

4. if a person, other than in a purely commercial transaction at arm's length, has directly or indirectly transferred money or property to the trust, conferred benefits on the trust or conferred special privileges on the property of the trust, the full name and address of the person and the family relationship, if any, of that person to the beneficiaries
5. names of any other trusts to which the person in 3 or 4 has contributed in the ways mentioned in those sub-paragraphs or in which the beneficiaries of the trust lodging this tax return are interested
6. details of property which has been transferred to a trust by a relative of the beneficiaries, and income from that property which must or may be used to pay for that property

If the Commissioner has exercised his discretion in relation to an earlier income year of the trust, you are not required to request the Commissioner to reconsider this for each subsequent income year unless material changes have occurred. In this case, you must provide a statement on a separate sheet of paper advising what material changes have occurred.

Attach the statement to the tax return and print **X** in the **Yes** box at **Have you attached any 'other attachments'?** at the top of page 1 of the tax return.

Can trust capital gains be reduced by the CGT discount and/or the small business 50% reduction where there is income to which no beneficiary is presently entitled?

If the trustee is assessable under section 99A of the ITAA 1936 on some or all of the net income of the trust, capital gains included in that part of the trust's net income are not eligible for the CGT discount and the small business 50% reduction (see section 115-222 of the ITAA 1997).

If the trustee is assessable under section 99A of the ITAA 1936 on some or all of the net income of the trust and the amount on which the trustee is assessed includes a capital gain to which either the CGT discount or the small business 50% reduction has been applied (but not both), work out the amount assessable to the trustee under section 99A as if the part attributable to the capital gain was double the amount it actually is.

If the trustee is assessable under section 99A of the ITAA 1936 on some or all of the net income of the trust, and the amount on which the trustee is assessed includes a capital gain to which both the CGT discount **and** the small business 50% reduction have been applied, work out the amount assessable to the trustee under section 99A as if the part attributable to the capital gain was four times the amount it actually is.

Provide a statement on a separate sheet of paper showing details of the amount assessable under section 99A using the above method. Attach the statement to the tax return and print **X** in the **Yes** box at **Have you attached any 'other attachments'?** at the top of page 1 of the tax return.

Has the trust received an employment termination payment (ETP) or superannuation lump sum?

Include death benefit ETPs and superannuation lump sums on the statement of distribution at **B** at the end of item **54** at **Income to which no beneficiary is presently entitled and in which no beneficiary has an indefeasible vested interest, and the trustee's share of credit for tax deducted**.

The trustee is liable to pay the tax, if any, on these amounts. The amount of tax payable by the trustee depends on the components of the ETP or superannuation lump sum and the extent that the dependants of the deceased benefit from the estate. For more information on ETPs and superannuation lump sums, see item 13 Superannuation lump sums and employment termination payments.

Has the trust received a listed investment company (LIC) capital gain amount?

If the following persons or entities are beneficiaries and the trustee claimed a deduction in respect of a LIC capital gain amount in calculating the trust's net income for tax purposes, the trustee must advise these beneficiaries of their share of the deduction:

- trustee of a trust
- trustee of a superannuation entity
- company (including a life insurance company)
- partnership.

Each beneficiary's share of the deduction is so much of that deduction as is reflected in their share of the net income of the trust.

Completing item 54

The total of the amounts at **N**, **A**, **B**, **U**, **F**, **G** and **H** on this statement equals the amount at item **26 Total net income or loss**, except in the case:

- of certain ETPs, as covered in item 13 Superannuation lump sums and employment termination payments
- where a beneficiary's or a trustee's share of franking credits at **N** has been reduced because of an entitlement to a foreign income tax offset
- where part of the net income is not taxable either to the trustee or beneficiary.

If part of the net income is not taxable to either the trustee or a beneficiary, for example, where it is not attributable to sources in Australia and it relates to a share of income that a non-resident beneficiary, who is not the trustee of another trust, is entitled to:

- attach a statement highlighting this to the tax return
- print **X** in the **Yes** box at **Have you attached any 'other attachments'?** at the top of page 1 of the tax return
- include the information outlined at Non-resident beneficiaries.

If part of a distribution is not taxable to either the trustee or a beneficiary, for example, the distribution to a non-resident beneficiary includes dividends, interest or royalties on which withholding tax has been withheld and remitted to the ATO, franked dividends, or a distribution to a foreign resident which requires an Australian managed investment trust to withhold an amount:

- attach a statement highlighting this to the tax return
- print **X** in the **Yes** box at **Have you attached any 'other attachments'?** at the top of page 1 of the tax return

- include the information outlined at Non-resident beneficiaries.

Trust losses

A trust cannot distribute an overall trust loss. In these circumstances, there will be no income of the trust estate to which any beneficiary can be presently entitled, which will generally result in the trustee being assessed on any net income of the trust for tax purposes, if there is any. However:

- a beneficiary still may be able to be made specifically entitled to (and assessed in respect of) a capital gain if it forms part of the capital of the trust rather than being included in the calculation of trust income
- you may still need to record certain information in the statements of distribution for the purposes of certain primary production concessions, see below at Beneficiaries of primary production trusts that report a loss.

If the trust has overall income, but has a negative net income for tax purposes, it cannot distribute that tax loss to beneficiaries.

Beneficiary details

If the number of beneficiaries exceeds five

For paper tax returns, if there are more than five beneficiaries, photocopy extra pages and complete the statement of distribution for each additional beneficiary.

Attach the additional beneficiary details to the tax return and print **X** in the **Yes** box at **Have you attached any 'other attachments'?** at the top of page 1 of the tax return.

Complete the statement of distribution even for those beneficiaries under a legal disability on whose behalf the trustee will be assessed.

Beneficiary 1, Beneficiary 2, Beneficiary 3, Beneficiary 4, Beneficiary 5

For each beneficiary presently entitled or having an indefeasible and vested interest in trust income, show:

- for individuals
  - tax file number (TFN)
  - full name, including title, surname or family name, and given names
  - residential address (street address, not PO Box)
  - date of birth
  - entity type code
- for non-individuals
  - TFN
  - full name of entity, for example, ABC Trust
  - business address (street address not PO Box)
  - entity type code.

Entity code

Print the appropriate code for the beneficiary entity type:

- **C** for Company
- **F** for Fund
- **I** for Individual
- **P** for Partnership
- **S** for Self-managed super fund
- **T** for Trust.

Ensure you complete these details fully and in the correct area.

Example 12

> If the beneficiary is a company, then complete the details as:
>
> Tax file number: 123 456 789
>
> Entity code: C
>
> Non-individual name: John Smith Pty Ltd
>
> Business address: 123 Brown Street
>
> Suburb/town: Melbourne
>
> State/territory: Vic
>
> Postcode: 3000

Assessment calculation code V

Insert an assessment calculation code from appendix 13 for each beneficiary presently entitled to a share of the income of the trust (even those beneficiaries under a legal disability on whose behalf the trustee will be assessed), and also for income to which no beneficiary is presently entitled and in which no beneficiary has an indefeasible vested interest.

Bankrupt estates are lodged under assessment calculation code **37**.

Share of income of the trust estate W

At **W** show each beneficiary’s share of the income of the trust estate recorded at **A** item **53 Income of the trust estate** to which they are presently entitled.

A beneficiary's entitlement to income may be prescribed by the deed, or it may depend on the exercise of a trustee's discretion. A beneficiary will be taken to be presently entitled to any income they are paid or that is applied on their behalf, at the discretion of the trustee.

A beneficiary will be deemed to be presently entitled to the income of a trust estate if they have an ‘indefeasible vested interest’ in that income. An indefeasible interest is simply one that cannot be defeased or brought to an end or varied, for example, it is not able to be varied by the exercise of a power by the trustee or another person. A vested interest is one that presently exists. However, it can be either a present right or one that can be enjoyed in the future.

The principal beneficiary of a special disability trust is considered to be presently entitled to all of the net income of the trust. For more information, see 53 Income of the trust estate.

Credit for tax withheld – foreign resident withholding L

Show each beneficiary’s share of credit for tax withheld where income of the trust is subject to foreign resident withholding.

Except for relevant trusts that have made beneficiaries specifically entitled to franked distributions or capital gains, you work out a beneficiary's share of the credit by multiplying the amount of tax withheld by the beneficiary's percentage share of the trust income. Show whole dollars only.

For trusts that have made beneficiaries specifically entitled to franked distributions or capital gains, you generally work out a beneficiary's share of the credit by multiplying the amount of tax withheld by their 'adjusted Division 6 percentage share'. Show whole dollars only.

If there is trust income to which no beneficiary is presently entitled, show that share of the amount of tax withheld at **L** under **Income to which no beneficiary is presently entitled** at the end of item **54**.

If the trust has no net income, the beneficiaries are not entitled to a share of the credit for tax withheld. Instead, show the sum of the amounts withheld at **L** under **Income to which no beneficiary is presently entitled** at the end of item **54**.

The total of the amounts at **L** must equal the total amount of credit shown on the tax return at **U** item **6** and **U** item **8**.

Note: you only complete this entry if the trust is a non-resident trust and the amount was withheld in Australia and remitted to the ATO.

Australian franking credits from a New Zealand franking company N

Include at **N** the beneficiary’s share of the Australian franking credit received from a New Zealand franking company, including any amounts received through another trust or a partnership. The beneficiary's share of this credit is broadly calculated as the sum of:

- the credit attaching to any part of the relevant distribution from the New Zealand franking company to which the beneficiary is 'specifically entitled', plus
- the beneficiary's 'adjusted Division 6 percentage' of the credit attaching to any part of the relevant distribution to which no beneficiary is 'specifically entitled'.

The amount at **N** is not necessarily the amount that can be claimed by each beneficiary.

If the beneficiary is under a legal disability, the trustee will be assessed, see above. In these circumstances, include at **N** in the beneficiary's statement of distribution the amount of Australian franking credits attached to a New Zealand franking company dividend allowed to the trustee.

If there are relevant distributions to which no beneficiary is presently entitled, include the trustee's share of the Australian franking credits attached to a dividend paid by a New Zealand franking company at **N** under **Income to which no beneficiary is presently entitled** at the end of item **54**. The trustee's share is worked out in the same way as their share of the franking credit on a franked distribution by an Australian company, see below.

Under section 220-405 of the ITAA 1997, the Australian franking credits may be reduced by the relevant part of the supplementary dividend paid by the New Zealand franking company if:

- the supplementary dividend was paid in connection with the franked dividend
- the beneficiary under a legal disability or trustee is entitled to a foreign income tax offset because the franked dividend is included in their assessable income. For more information, see appendix 1.

Share of income A and B

Show each beneficiary's share of the trust's primary production income and non-primary production income included in the net income of the trust for tax purposes at **A** and **B**, except to the extent that these amounts are recorded at other labels, at item **54**.

The trust's primary production income is generally indicated at items **5 Business income and expenses** and **8 Partnerships and trusts**, less any primary production deductions.

The trust's non-primary production income is the amount shown at item **26 Total net income or loss**, less:

- primary production income as calculated above
- amounts attributable to capital gains (shown at item **21 Capital gains**)
- foreign income included at items **22 Attributed foreign income** and **23 Other assessable foreign source income**.

All of these amounts are shown at separate labels in the distribution statement.

While the trust's non-primary production income includes franked distributions, for the purpose of recording beneficiaries' shares of franked distribution included in the net income of the trust in the distribution statement, these amounts should not be shown at **B**. Franked distributions (both fully and partially franked) should be shown at **U** in the distribution statement. Unfranked distributions should continue to be shown at **B**.

The amount shown at **A** is worked out by multiplying the primary production income by the beneficiary's percentage share of the trust's income or 'adjusted Division 6 percentage' share, in the case of relevant trusts with capital gains or franked distributions that any beneficiary (or the trustee) is 'specifically entitled' to in full or in part.

For trusts that did not receive franked distributions either directly or indirectly through a partnership or trust during the income year and did not have any capital gains that any beneficiary (or the trustee) was specifically entitled to, the amount shown at **B** is worked out by multiplying the non-primary production income by the beneficiary's percentage share of the trust's income.

The non-primary production income amount shown at **B** will need to be worked out differently if the trust:

- is a relevant trust with capital gains or franked distributions that any beneficiary (or the trustee) is 'specifically entitled' to in full or in part, or
- is a managed investment trust that has not elected to apply the new streaming provisions.

Legislative changes provide for the streaming of franked distributions and capital gains to beneficiaries for tax purposes. The amendments apply from the 2010–11 income year and introduced the concept of 'specific entitlement'. This broadly ensures that a beneficiary (or trustee assessed on behalf of a beneficiary) that has been streamed a franked distribution by the trustee, and will receive the benefits of that distribution, is assessed on the amount of the franked distribution included in the net income of the trust and on the franking credits attached to that distribution (the gross-up amount). Similar rules apply in respect of any capital gains of the trust.

These law changes do not apply to managed investment trusts unless they choose for them to apply.

For relevant trusts with capital gains or franked distributions that any beneficiary (or the trustee) is 'specifically entitled' to in full or in part, the amount shown at **B** in respect of a beneficiary should include the beneficiary's 'adjusted Division 6 percentage' of all other non-primary production income of the trust, excluding franked distributions.

Franked distributions are now shown at **U**, refer below.

For more information, see: Interim changes to the taxation of trusts

For MITs that have not elected to apply the new streaming changes, the amount at **U Franked distribution** will also be required to be worked out differently if the MIT received any franked distributions (either directly or indirectly via a partnership or another trust) during the income year. For each beneficiary:

- multiply the non-primary production income by the beneficiary's percentage share of the trust's income
- subtract the beneficiary's proportionate share of franking credits included in the trust's net income (calculated as an amount equal to the total franking credits included in the trust's net income (at **D** item **8**, and at **M** item **12** and **D** item **23**) multiplied by the beneficiary's percentage share of the trust income), and
- add the beneficiary's share of franking credits that reflect their trust entitlement to the franked distributions (calculated as the total of the credits shown at **D** in the statement of distribution at this item less any amount already recorded at **N** in the statement of distribution).

If the shares or interests are not held at risk as required under the holding period and related payments rules, or there is other manipulation of the imputation system, do not include the relevant franking credits here or at **D** in the statement of distribution at this item.

Note that the amounts shown at **A** and **B** under any calculation method may be different from the primary production and non-primary production income actually distributed to the beneficiary, or which they were entitled to receive from the trust.

If the trust made a loss from its primary production or non-primary production activities, print **L** in the box after the amount. Note that the total of the amounts shown at **N**, **A**, **B**, **U**, **F**, **G** and **H** should be a positive amount, because trusts cannot distribute losses.

Beneficiaries of primary production trusts that report a loss

Eligible primary producer beneficiaries can access income averaging and hold a farm management deposit in years even where a primary production trust reports a loss for trust purposes.

What you are required to show at **A Primary production** will depend on the type of trust that has made the loss for trust purposes.

Fixed trusts

If the trust is a fixed trust, all the eligible beneficiaries are able to access income averaging and hold farm management deposit.

Discretionary trusts

If the trust is a discretionary trust, the trustee will need to choose those beneficiaries who will still be eligible for the concessions.

Trustees may choose beneficiaries who will be eligible for income averaging or hold farm management deposits.

The trustee's choices must be:
- made in writing
- signed by both the trustee and the beneficiary, and
- made by the time that the trust return is lodged (unless the Commissioner allows a later time).

The trustee may choose the greater of:
- 12 beneficiaries, or
- the number of primary producer beneficiaries chosen in the previous income year.

How to complete A Primary production

Show '**0**' at **A Primary production** for each eligible beneficiary, that is:
- all fixed trust beneficiaries, and
- each chosen discretionary trust beneficiary eligible for income averaging.

If as a result of the trustee's choices, a primary producer is eligible to access farm management deposits but is not eligible for income averaging, do not show anything at **A Primary production** for that beneficiary.

For more information, see:
- Tax averaging for primary producers
- Farm management deposits scheme.

Credit for tax withheld where ABN not quoted C

Show each beneficiary’s share of credit for tax withheld where an ABN was not quoted.

Except for relevant trusts which have made beneficiaries specifically entitled to franked distributions or capital gains, you work out a beneficiary's share of the credit by multiplying the amount of tax withheld by the beneficiary's percentage share of the trust income. Show whole dollars only.

For trusts which have made beneficiaries specifically entitled to franked distributions or capital gains, you generally work out a beneficiary's share of the credit by multiplying the amount of tax withheld by their 'adjusted Division 6' percentage share. Show whole dollars only.

If there is trust income to which no beneficiary is presently entitled, show that share of the amount of tax withheld at **C** under **Income to which no beneficiary is presently entitled** at the end of item **54**.

If the trust has no net income, the beneficiaries are not entitled to a share of the credit for tax withheld. Instead, show the sum of the amounts withheld at **C** under **Income to which no beneficiary is presently entitled** at the end of item **54**.

The total of **C** amounts for each completed statement of distribution equals the sum of any credit claimed at:

- **T Tax withheld where ABN not quoted** item **6**
- **C Share of credit for tax withheld where ABN not quoted** item **8**.

Franked distributions U

Show each beneficiary's share of franked distributions, to the extent they formed part of the net income of the trust for tax purposes, at **U**. The amount shown at **U** also includes the beneficiary's share of attached franking credits (the franking credit 'gross-up').

Trusts which have not made beneficiaries (or the trustee) 'specifically entitled' to franked distributions or capital gains generally work out a beneficiary's share of the franked distributions by multiplying the total amount of the trust's franked distributions (and any attached franking credits) to the extent to which those distributions formed part of the net income of the trust estate for tax purposes by the beneficiary's percentage share of the trust income. Show whole dollars only.

For relevant trusts with capital gains or franked distributions that any beneficiary (or the trustee) is 'specifically entitled' to in full or in part, the amount shown at **U** in respect of a beneficiary should generally include:

- the amount of the net franked distributions that the beneficiary is 'specifically entitled' (net franked distributions are determined by reducing the franked distributions by expenses that are directly relevant to them), to the extent that those distributions formed part of the net income of the trust estate for tax purposes, plus any attached franking credits, plus
- the beneficiary's 'adjusted Division 6 percentage' share of any net franked distributions of the trust that no beneficiary is 'specifically entitled' to the extent that those distributions formed part of the net income of the trust estate for tax purposes, plus that same share of any attached franking credits.

For more information, see: Interim changes to the taxation of trusts.

The total amount of franking credits (the franking credit 'gross-up') included at this label for a beneficiary would generally equal the total of the credits shown at **D** at this item, less any amount already recorded at **N**.

For MITs that have not elected to apply the new streaming changes, the amount at **U Franked distribution** will also be required to be worked out differently if the MIT received any franked distributions (either directly or indirectly via a partnership or another trust), during the income year. For each beneficiary:

- multiply the non-primary production income by the beneficiary's percentage share of the trust's income
- subtract the beneficiary's proportionate share of franking credits included in the trust's net income (calculated as an amount equal to the total franking credits included in the trust's net income (at **D** item **8**, and at **M** item **12** and **D** item **23**) multiplied by the beneficiary's percentage share of the trust income), and
- add the beneficiary's share of franking credits that reflect their trust entitlement to the franked distributions (calculated as the total of the credits shown at **D** in the statement of distribution at this item less any amount already recorded at **N** in the statement of distribution).

If the shares or interests are not held at risk as required under the holding period and related payments rules, or there is other manipulation of the imputation system, do not include the relevant franking credits here or at **D** in the statement of distribution at this item.

Franking credit D

For trusts that did not make any beneficiary (or the trustee) specifically entitled to any franked distributions or capital gains, the amount shown at **D** is worked out by multiplying the total franking credits included in the trust's net income (at **D** item **8**, **M** item **12** and **D** item **23**) multiplied by the beneficiary's percentage share of the trust income.

The amount shown at **D** will need to be worked out differently if the trust:
- is a relevant trust with capital gains or franked distributions that any beneficiary (or the trustee) is 'specifically entitled' to in full or in part, or
- is an MIT that has not elected to apply the new streaming provisions.

For relevant trusts with capital gains or franked distributions that any beneficiary (or the trustee) is 'specifically entitled' to in full or in part, the amount shown at **D** in respect of a beneficiary should include:
- any franking credits attaching to franked distributions to which the beneficiary is 'specifically entitled', to the extent to which those distributions formed part of the net income of the trust estate for tax purposes, plus
- the beneficiary's 'adjusted Division 6 percentage' share of any franking credits attaching to any part of the franked distributions forming part of the net income of the trust estate, to which no beneficiary is 'specifically entitled'.

For MITs that have not elected to apply the new streaming changes, show at **D** each beneficiary’s share of franking credits for franked distributions received by the trust (including dividends flowing to the trust via a partnership or another trust).
- A beneficiary's share of the franking credit on a franked distribution will depend on their entitlement to the distribution, having regard to the trust deed and any relevant trustee resolution. To work out the beneficiary's entitlement to the franked distribution where it has come via one or more trusts or partnership, you will need to work out the entitlements to the franked distribution of each interposed entity through which the dividend flowed.
- If only some of the beneficiaries to whom the income of the trust has been distributed are entitled to benefit from the franked distribution, then only those beneficiaries will have a share of the franking credits. To work out a beneficiary's share, express their entitlement to the franked distribution as a percentage of the total franked distribution. Multiply the result by the amount of franking credits on that dividend.
- Show '**0**' at **D** for any other beneficiary who is presently entitled to a share of the trust's distributable income but that entitlement does not comprise or include the franked dividend.

If the trustee is assessable on a part of the net income under section 99 or 99A, the trustee may have a share of the franking credit on the dividend. To work out the trustee's entitlement, express that part of the dividend in respect of which no beneficiary has an entitlement as a percentage of the total dividend. Multiply the result by the amount of the franking credit on that dividend at **D** under **Income to which no beneficiary is presently entitled** at the end of item **54**.

Except as explained below, the total of **D** amounts for each completed statement of distribution must equal the sum of franking credits claimed at:

- **D Share of franking credits from franked distributions** item **8**
- **M Franking credit** item **12**
- **D Australian franking credits from a New Zealand franking company** item **23**.

If the shares or interests are not held at risk as required under the holding period and related payments rules, or there is other manipulation of the imputation system, do not include the relevant franking credits at **D**.

Note that under section 220-405 of the ITAA 1997, the Australian franking credits from a New Zealand franking company may be reduced by the relevant part of the supplementary dividend paid by the New Zealand franking company if:
- the supplementary dividend was paid in connection with the franked dividend
- the beneficiary under a legal disability or trustee is entitled to a foreign income tax offset because the franked dividend is included in their assessable income.

For more information on dividends, see appendix 1.

For more information, see: Interim changes to the taxation of trusts.

TFN amount withheld E

Show each beneficiary's share of credit for amounts withheld from payments of interest, dividends and unit trust distributions by investment bodies because the recipient did not quote a TFN.

Except for relevant trusts which have made beneficiaries specifically entitled to franked distributions or capital gains, you work out a beneficiary's share of the credit by multiplying the amount of tax withheld by the beneficiary's percentage share of the trust income. Show whole dollars only.

For trusts which have made beneficiaries specifically entitled to franked distributions or capital gains, you generally work out a beneficiary's share of the credit by multiplying the amount of tax withheld by their 'adjusted Division 6' percentage share. Show whole dollars only.

If there is trust income to which no beneficiary is presently entitled, show that share of the credit for the TFN amounts withheld at **E** under **Income to which no beneficiary is presently entitled** at the end of item **54**.

If the trust has no net income, the beneficiaries do not have a share of credit for the TFN amounts withheld. Instead, show the sum of the TFN amounts at **E** under **Income to which no beneficiary is presently entitled** at the end of item **54**.

The total of **E** amounts for each completed statement of distribution must equal the sum of TFN amounts withheld on interest, dividends and unit trust distributions at:
- **E Share of credit for TFN amounts withheld from interest, dividends and unit trust distributions** item **8**
- **I TFN amounts withheld from gross interest** item **11**
- **N TFN amounts withheld from dividends** item **12**.

Share of credit for TFN amounts withheld from payments from closely held trusts O

Show at **O** each beneficiary's share of credit for any amount withheld by the trustee of a closely held trust from a distribution made to you as a trustee beneficiary, because a TFN was not provided.

Except for relevant trusts which have made beneficiaries specifically entitled to franked distributions or capital gains, you work out a beneficiary's share of the credit by multiplying the amount of tax withheld by the beneficiary's percentage share of the trust income. Show whole dollars only.

For trusts which have made beneficiaries specifically entitled to franked distributions or capital gains, you generally work out a beneficiary's share of the credit by multiplying the amount of tax withheld by their 'adjusted Division 6' percentage share. Show whole dollars only.

If there is trust income to which no beneficiary is presently entitled, show that share of the credit for the TFN amounts withheld from payments from closely held trusts at **O** under **Income to which no beneficiary is presently entitled** at the end of item **54**.

If the trust has no net income, the beneficiaries are not entitled to a share of the credit for tax withheld. Instead, show the sum of the amounts withheld at **O** under **Income to which no beneficiary is presently entitled** at the end of item **54**.

The total of **O** amounts for each completed statement of distribution must equal the sum of TFN amounts withheld on closely held trust distributions shown at **O** item **8 Partnerships and trusts** in the trust return.

Do not show at **O** any amounts you have withheld, as the trustee of a closely held trust, from payments or distributions where the beneficiary has not provided their TFN to you. These should be reported at **T Total TFN amounts withheld from payments**.

For more information about the TFN withholding rules for closely held trusts, see TFN withholding for closely held trusts.

Capital gains F

Show at **F** each beneficiary’s share of the trust's capital gains. Show whole dollars only.

Legislation has been enacted that makes changes to allow the streaming of franked distributions and capital gains to beneficiaries for tax purposes. The amendments apply from the 2010–11 income year and introduced the concept of 'specific entitlement' that broadly ensures that a beneficiary, (or trustee assessed on behalf of a beneficiary), that has been 'streamed' a capital gain by the trustee and will receive the benefits of that gain, is assessed on so much of that capital gain as is included in the net income of the trust. Similar rules apply in respect of any franked distributions of the trust.

These law changes do not apply to managed investment trusts unless they choose for them to apply.

For trusts subject to the new legislation, the amount shown at **F** is the sum of the beneficiary's share of capital gains that the beneficiary is 'specifically entitled', to the extent that it forms part of the net income of the trust estate for tax purpose, plus the beneficiary's 'adjusted Division 6 percentage' share of any capital gains that no beneficiary is 'specifically entitled', to the extent they form part of the net income of the trust.

For more information, see: Interim changes to the taxation of trusts.

For MITs that have not elected to apply the streaming changes, the amount shown at **F** is determined by multiplying the beneficiary's percentage share of the income of the trust by the trust's capital gains.

If there is trust income to which no beneficiary is presently entitled, show that share of the trust's capital gains at **F** under **Income to which no beneficiary is presently entitled** at the end of item **54**.

The legislation that provides for the streaming of capital gains and franked distributions for tax purposes includes an option for eligible trustees to choose to be assessed on capital gains of the trust in certain circumstances. If this option applies, show that share of the trust's capital gains at **Y** under **Choice for resident trustee to be assessed to capital gains on behalf of beneficiaries** at item **55**. Capital gains under which this choice has been made should only be shown at item **55** and should not be shown at **F** item **54** for each relevant beneficiary.

Show at **F** each beneficiary's share of the trust's capital gains in whole dollars only.

For more information, see: Interim changes to the taxation of trusts.

To help a trustee record the information required, see worksheet 5.

The total **F** amounts from each completed statement of distribution, plus any label **Y** item **55** amount, would generally equal the amount at **A Net capital gain** item **21** unless the trust has deductible expenses or revenue losses that have properly been applied against the net capital gain in working out the net income of the trust. To complete their own tax returns and meet their capital gains tax obligations, beneficiaries will need the following information:

- a dissection of their share of the trust's net capital gain according to
  - capital gains from collectables and all other capital gains
  - whether capital losses have been applied against a capital gain
  - whether any capital gains are discount capital gains
  - whether any capital gains have been reduced by the small business 50% reduction and/or any of the other small business CGT concessions
  - details of the amount and type of any capital gains that they are specifically entitled
- details of any non-assessable payment made in the income year in respect of an interest in the trust (CGT event E4 section 104-70 of the ITAA 1997). The details should indicate the extent to which the payment is attributable to each of the following
  - tax-exempted amounts (subsection 104-71(1) of the ITAA 1997)
  - tax-free amounts (subsection 104-71(3) of the ITAA 1997)
  - CGT concession amounts (subsection 104-71(4) of the ITAA 1997)

- tax-deferred amounts, associated with the small business 50% active asset reduction, frozen indexation, building allowance and accounting difference in income
- details of any capital gains on which the trustee has chosen to be assessed on behalf of a beneficiary to ensure that the beneficiary is not assessed on this amount.

For information about the small business concessions, see Capital gains tax (CGT) concessions for small business – overview.

For more information about capital gains tax, see the Guide to capital gains tax 2013 (NAT 4151).

Attributed foreign income G

Show each beneficiary’s share of attributed foreign income included in the net income of the trust in whole dollars only. Except for relevant trusts that have made beneficiaries 'specifically entitled' to amounts of franked distributions or capital gains, this amount is generally worked out by multiplying a beneficiary's percentage share of trust income by the total attributed foreign income of the trust.

For trusts which have made beneficiaries specifically entitled to franked distributions or capital gains, you generally work out a beneficiary's share of attributed foreign income by multiplying the amount of tax withheld by their 'adjusted Division 6' percentage share. Show whole dollars only.

If there is trust income no beneficiary is presently entitled, show that share of the trust's attributed foreign income at **G** under **Income to which no beneficiary is presently entitled** at the end of item **54**.

The total **G** amounts for each completed statement of distribution must equal the sum of any attributed foreign income shown at item **22 Attributed foreign income** on the trust tax return.

If the beneficiary was not a resident of Australia at any time during the income year, see Non-resident beneficiaries.

Other assessable foreign source income H

Show each beneficiary’s share of other assessable net foreign source income included in the net income of the trust for tax purposes. Except for relevant trusts that have made beneficiaries 'specifically entitled' to amounts of franked distributions or capital gains, this amount is generally worked out by multiplying a beneficiary's percentage share of trust income by the total of the trust's other assessable net foreign source income.

For trusts that have made beneficiaries specifically entitled to franked distributions or capital gains, you generally work out a beneficiary's share of assessable net foreign source income by multiplying the amount of tax withheld by their 'adjusted Division 6' percentage share. Show whole dollars only.

The total of **H** amounts for each completed statement of distribution must equal the amount of net foreign source income shown at **V Net** item **23** on the trust tax return.

If the beneficiary was not a resident of Australia at any time during the income year, see Non-resident beneficiaries.

Foreign income tax offset I

Show each beneficiary’s share of foreign income tax offsets at **I**.

Except for relevant trusts that have made beneficiaries 'specifically entitled' to amounts of franked distributions or capital gains, this amount is worked out by multiplying a beneficiary's percentage share of trust income by the total of the trust's foreign income tax offsets.

For trusts which have made beneficiaries specifically entitled to franked distributions or capital gains, you generally work out a beneficiary's share of assessable net foreign source income by multiplying the amount of tax withheld by their 'adjusted Division 6' percentage share.

If there is trust income to which no beneficiary is presently entitled, show that share of the trust's foreign income tax offset at **I** under **Income to which no beneficiary is presently entitled** at the end of item **54**.

The total of **I** amounts for each completed statement of distribution must equal the amount of foreign income tax offsets shown at **Z Foreign income tax offset** item **23** on the trust tax return.

Share of National Rental Affordability Scheme tax offset R

Show each beneficiary’s share of the NRAS tax offset: include cents.

A beneficiary's share of the NRAS tax offset will depend on their entitlement to the NRAS rent derived by the trustee (or flowing to the trustee via a partnership or another trust) having regard to the trust deed and any relevant trustee resolution.

The beneficiary's entitlement to the NRAS rent is expressed as a percentage of the total NRAS rent derived from all rental dwellings covered by the certificate issued by the Secretary of the Department of Families, Housing, Community Services and Indigenous Affairs. To work out the beneficiary's entitlement to the NRAS rent where it has come via one or more trusts or partnership, you will need to work out the entitlements to the NRAS rent of each interposed entity in the chain through which the amount flowed.

The beneficiary's percentage entitlement is then multiplied by the amount of the tax offset stated in the certificate relating to those dwellings (or in any amended certificate).

If only some of the beneficiaries to whom the income of the trust has been distributed are entitled to benefit from the NRAS rent, then only those beneficiaries will be entitled to the offset.

If the trustee is assessable on a part of the net income under section 99 or 99A, the trustee may be entitled to the NRAS offset. To work out the trustee's entitlement, express that part of the NRAS rent in respect of which no beneficiary has an entitlement as a percentage of the total NRAS rent derived from all rental dwellings covered by the certificate. Multiply the result by the amount of the tax offset stated in the certificate at **R** under **Income to which no beneficiary is presently entitled** at the end of item **54**.

A trustee may also be entitled to the NRAS offset if the trust does not have any net income for the year – see section 380-20 of the ITAA 1997. Record the trustee's entitlement at **R** under **Income to which no beneficiary is presently entitled** at the end of item **54**.

The total of the amounts shown at **R** for each completed statement of distribution must equal the amount of NRAS tax offset entitlement shown at **F** item **50** on the trust tax return: include cents.

Non-resident beneficiary additional information

Under Division 6 ITAA 1936, a trustee will be liable to pay tax in relation to:

- shares of net income of a trust where non-resident companies and individual beneficiaries not being trustees are presently entitled to a share of the income of the trust – both these amounts are shown at **J Non-resident beneficiary additional information** s98(3) assessable amount item **54**
- share of net income of a trust where a beneficiary who is presently entitled to the income of the trust is itself a trustee and is a non-resident at the end of the income year – these amounts are shown at **K Non-resident beneficiary additional information** s98(4) assessable amount item **54**.

Section 98(3) assessable amount

Non-resident company beneficiaries assessable amount J

If you have entered assessment calculation code 139 (non-resident company beneficiaries) at **V**, you must include an amount at **J**.

The amount to show at **J** is the amount the trustee is liable to pay tax on under section 98 of the ITAA 1936 on behalf of the corporate beneficiary who is a non-resident at the end of the income year: show whole dollars only.

The amount the trustee is liable to pay tax on is calculated as:

- so much of the trust's net income that is attributable to a period (if any) that the corporate beneficiary was a resident multiplied by the beneficiary’s percentage share of the income of the trust, and
- so much of the trust's net income that is attributable to Australian sources for the period the corporate beneficiary was a non-resident multiplied by the beneficiary’s percentage share of the income of the trust.

Do not include income from which foreign resident withholding tax has been withheld (such as unfranked dividends, interest and royalties, fully franked dividends or amounts on which managed investment trust withholding tax is payable). Do not include the capital gains for which the trustee is not liable to pay tax under Subdivision 855-A of the ITAA 1997.

If the corporate beneficiary's share of net income of the trust includes an amount that is attributable to a discounted capital gain made by the trust, work out the amount the trustee is liable to pay tax on under subsection 98(3) as if the part attributable to the capital gain was double the amount it actually is: see section 115–220 of the ITAA 1997. This ensures that a trustee assessed on behalf of a non-resident company beneficiary does not get the benefit of the CGT discount that the corporate beneficiary would not be entitled to if it were assessed.

To work out whether the corporate beneficiary's share of the net income includes an amount that is attributable to a discounted capital gain of the trust, multiply the beneficiary's percentage share of the income of the trust by so much of that discounted capital gain that is reflected in the trust's net capital gain, that is, after the application of any capital losses and net capital losses to that gain.

If the beneficiary is a non-resident at the end of the year and has not been a non-resident for the entire year, show clearly in a separate schedule full details of its share of the net income. It is important to provide the information set out at **Non-resident beneficiaries** so that the appropriate tax rates can be applied.

Non-resident individual beneficiaries assessable amount J

If you have entered assessment calculation code 138 (non-resident individual beneficiaries) at **V**, you must include an amount at **J**.

The amount to show at **J** is the amount the trustee is liable to pay tax on under section 98 of the ITAA 1936 on behalf of an individual beneficiary who is a non-resident at the end of the income year: show whole dollars only.

The amount assessed to the trustee is comprised of the beneficiary's share of the net income from the trust that is attributable to a period (if any) that the beneficiary was a resident, as well as the beneficiary's share of the trust's net income that is attributable to Australian sources for the period the beneficiary was a non-resident.

Do not include income subject to withholding tax (unfranked dividends, interest and royalties), fully franked dividends or amounts on which managed investment trust withholding tax is payable. Do not include any capital gains for which the trustee is not liable to pay tax under Subdivision 855-A of the ITAA 1997. All other Australian source income is included.

If the beneficiary is a non-resident at the end of the year, but has not been a non-resident for the entire year, you will have printed **X** in the **Yes** box at **A** item **29**. It is important to provide the information set out at **Non-resident beneficiaries** so that the appropriate tax rates can be applied.

Section 98(4) assessable amount

Non-resident trustee beneficiaries assessable amount K

If you have entered assessment calculation code 140 (non-resident trustee beneficiary) at **V**, you must include an amount at **K**. Any amounts reported at **K** should not be included at **P** or **Q** (TB statement).

The amount to show at **K** is the amount the trustee is liable to pay tax on under section 98 of the ITAA 1936 because a trustee beneficiary, who is presently entitled to a share of the trust's distributable income, is a non-resident at the end of the income year: show whole dollars only.

The amount the trustee is liable to pay tax on is so much of the non-resident trustee beneficiary's share of the net income of the trust as is attributable to Australian sources. Do not include income subject to withholding tax (unfranked dividends, interest and royalties), fully franked dividends or amounts on which managed investment trust withholding tax is payable. Do not include any capital gains for which the trustee is not liable to pay tax under Subdivision 855-A of the ITAA 1997.

If the trustee beneficiary's share of net income of the trust includes an amount that is attributable to a discounted capital gain made by the trust, work out the amount the trustee is liable to pay tax on under subsection 98(4) as if the part attributable to the capital gain was double the amount it actually is: see section 115–220 of the ITAA 1997. This ensures that a trustee assessed on behalf of a non-resident trustee beneficiary does not get the benefit of the CGT discount that a corporate beneficiary would not be entitled to if it were assessed.

To work out a non-resident trustee beneficiary's share of the net income that is attributable to a discounted capital gain of the trust multiply the beneficiary's percentage share of the income of the trust by so much of that discounted capital gain that is reflected in the trust's net capital gain, that is, after the application of any capital losses and net capital losses to that gain.

If the beneficiary is a non-resident at the end of the year and has not been a non-resident for the entire year, show clearly in a separate schedule full details of its share of the net income. It is important to provide the information set out at Non-resident beneficiaries so that the appropriate tax rates can be applied.

Trustee beneficiary (TB) statement information

There are reporting obligations that apply to certain distributions to trustee beneficiaries of a closely held trust (that is not an excluded trust) within the meaning of section 102UC of the ITAA 1936 (the trustee beneficiary reporting rules). Appendix 12 contains information about what constitutes a closely held trust and an 'excluded trust' for these purposes. If you are making a distribution to another trust, you should read appendix 12 before completing this section.

Failure to meet these reporting obligations may result in a liability for trustee beneficiary non-disclosure tax, currently imposed at a rate of 46.5%.

This section is to be completed by all closely held trusts that have an obligation under the trustee beneficiary reporting rules. You do not need to complete this section if you are not the trustee of a closely held trust or if you are the trustee of an 'excluded trust' for the purposes of the trustee beneficiary reporting rules.

If you are not making a TB statement for the trustee beneficiary, print **X** in the **No** box. A TB statement is not required where the trustee beneficiary was not presently entitled to tax-preferred amounts and its share of the trust's net income does not include an untaxed part.

If you are making a TB statement, print **X** in the **Yes** box for this trustee beneficiary, and then:
- for resident beneficiaries, ensure the name and TFN of the trustee beneficiary is recorded in the beneficiary details section
- for non-resident beneficiaries, ensure the name and address of the trustee beneficiary is recorded in the beneficiary details section
- at **P** show any tax-preferred amounts to which the trustee beneficiary is presently entitled; if there are no tax-preferred amounts, show a zero at **P**
- at **Q** show any untaxed part of a share of net income of the trustee beneficiary; if there is no untaxed part of a share of net income, show a zero at **Q**.

For more information about the definitions of 'tax-preferred amounts' and 'untaxed part of a share of net income', see appendix 12.

Annual trustee payment report information

This section is to be completed by all closely held trusts (including family trusts) which are subject to the TFN withholding rules for closely held trusts that have:
- made payments during the income year, or
- withheld amounts from payments made to beneficiaries.

Note that the definition of an ‘excluded trust’ for the purposes of the TFN withholding rules differs from the definition of an ‘excluded trust’ for the purposes of the trustee beneficiary reporting rules. See appendix 12 for more information.

Show an amount at **S** where you have made one or more distributions during the income year (not as a result of determining present entitlement at year end) that are wholly or partly from the ordinary or statutory income of the trust for that year **and** the total of those distributions exceeds the beneficiary's share of the net income of the trust shown at item **54**. Only include at **S** the amount by which these distributions made during the income year exceed the beneficiary's share of the net income.

If the only distributions of ordinary or statutory income made by the trust are as result of determining present entitlement at year end, show nothing at **S**. In these cases, an amount will generally be shown at **W** item **54**.

Show at **T** the amounts withheld from all payments or distributions to the beneficiary where the beneficiary's TFN was not provided to you. This includes amounts withheld from payments during the year or as a result of determining present entitlement at the end of the year. Do not show at **T** the beneficiary's share of amounts that were reported at **O** item **8** – these are included at **O** item **54**.

For more information about the TFN Withholding Rules for closely held trusts, refer to appendix 12.

Share of other refundable tax offsets X

At the end of item **54**, show the share of other refundable tax offsets recorded at **G** item **51**.

Other refundable tax offsets will include the conservation tillage refundable tax offset. The offset is 15% of the cost of a depreciable asset that is an eligible no-till seeder. The trustee of the trust will claim the conservation tillage refundable tax offset.

Show at **X** the total of the offset that you are claiming.

For more information, see Conservation tillage refundable tax offset.

55 Choice for resident trustee to be assessed to capital gains on behalf of beneficiaries

Commencing for the 2010–11 income year, the trustee of a resident trust may choose (if permitted by the trust deed), to be assessed on a capital gain of the trust. This is allowed provided no beneficiary has received any amount referable to the gain during the income year or within two months of the end of the income year. The choice must be made in respect of the whole capital gain.

This is similar to (and replaces) the choice available to the trustee of a testamentary trust under the law prior to the 2010–11 amendments, but is not limited to those trustees. For example, the trustee will be able to make the choice if under the terms of the trust the income beneficiary cannot benefit from the capital gains. It is only the trustee that can make this choice.

If the trustee makes a choice in respect of a capital gain then:

- the trustee will be assessed on the capital gain under section 99 or 99A, as appropriate

- the capital gain is not taken into account in working out any beneficiary's net capital gain for an income year.

You should include the amount of the capital gain for which the trustee is making this choice at **Y**. Where the trustee is making the choice in respect of more than one capital gain, you should show the total of all capital gains at **Y**.

Capital gains under which this choice has been made should only be shown at **Y** and should not be shown at **F Capital gains** in item **54** for the relevant beneficiary.

You will need to insert an assessment calculation code from appendix 13 at **X** as appropriate for your trust. The relevant codes are:

For inter vivos trusts:

36 – Where the trustee is assessed under section 99A ITAA 1936

37 – Where the trustee is assessed under section 99 ITAA 1936.

For deceased estates:

15 – Where the trustee is assessed under section 99 ITAA 1936

16 – Where the trustee is assessed under section 99 ITAA 1936 without the tax-free threshold.

56 Beneficiary under legal disability who is presently entitled to income from another trust

Was any beneficiary in this trust, who was under a legal disability on 30 June 2013, also presently entitled to a share of the income of another trust? If yes, print **X** in the **Yes** box. If not, print **X** in the **No** box.

The trustee is liable to be assessed on the share of net income of the trust if a beneficiary is presently entitled to a share of the income of the trust but under a legal disability. Where the beneficiary is presently entitled to a share of the income from more than one trust, the beneficiary's share of the net income from each of the trusts is taken into account in working out the tax rate to apply in the trustee's assessment on behalf of the beneficiary. For more information on the tax rates and relieving provisions, see appendix 11.

Where the beneficiary is presently entitled to income from one or more other trusts, give the following information for each of those trusts:
- name of the trust
- trust TFN
- income to which the beneficiary is presently entitled.

If a trustee is unable to provide any part of this information, they must provide all the available details together with the name and address of the parent or guardian of the beneficiary.

57 Non-resident trust

A trust is a non-resident of Australia if:
- no trustee of the trust was a resident of Australia, at any time during the income year and

- the central management and control of the trust was not in Australia at any time during the income year.

If the trust is a non-resident trust, print **X** in the **Yes** box. If not, print **X** in the **No** box.

If the trust is a non-resident trust, show in the box marked **$** at this item the amount of income derived outside Australia to which no beneficiary is presently entitled.

Print **NIL** in the last 3 boxes at this item if applicable.

Declarations

For a trust, the trustee or public officer must sign and date the declaration.

Hours taken to prepare and complete this tax return

We are committed to reducing the costs involved in complying with your taxation obligations, by completing this item you will help us to monitor these costs as closely as possible. Your response is voluntary.

When completing this item, consider the time, rounded up to the nearest hour, that your business spent:
- reading the instructions
- collecting the necessary information to complete this tax return
- making any necessary calculations
- actually completing this tax return or putting the tax affairs of your business in order so that the information could be handed to your tax agent.

The answer should relate to the time the trustee and tax agent spent in preparing and completing the tax return, this includes the time spent by any other person whose assistance was obtained in doing this, such as an employee.

Tax agents

If you are preparing this tax return on behalf of your client, include your time and a reliable estimate of their time.

Worksheets

Worksheet 1: Reconciliation statement

The Reconciliation statement is available to download in PDF [200 KB].

Worksheet 2: Distribution of income from partnerships and share of net income from other trusts

The Distribution of income from partnerships and share of net income from other trusts worksheet is available to download in PDF [177 KB].

Worksheet 3: Interest

The Interest worksheet is available to download in PDF [131 KB].

Worksheet 4: Dividends

The Dividends worksheet is available to download in PDF [130 KB].

Worksheet 5: Capital gains

The Capital gains worksheet is available to download in PDF [181 KB].

Worksheet 6: Foreign income

The Foreign income worksheet is available to download in PDF [129 KB].

Appendixes

Appendix 1: Dividends

An imputation system applies for taxing dividends paid by franking entities. Certain dividends (including non-share dividends) paid by franking entities, which have paid Australian tax, may have a franking credit attached. These dividends are known as franked dividends.

If the shares or interests are not held at risk as required under the holding period and related payments rules, or there is other manipulation of the imputation system, do not include the Australian franking credit in assessable income and there is no entitlement to a franking tax offset.

Trans-Tasman imputation

The Australian Government has rules, administered by the Australian Taxation Office, to allow New Zealand companies to join the Australian imputation system. The New Zealand Government has similar rules, administered by the New Zealand Inland Revenue Department, to allow Australian companies to join the New Zealand imputation system. Subject to full compliance with the Australian imputation rules, a New Zealand company that has chosen to join the Australian imputation system is able to maintain an Australian franking account and may pay dividends franked with Australian franking credits.

For dividends paid by Australian franking companies, the total amount of dividends received or credited and the franking credit is included in the assessable income of the trust to determine the relevant net income or loss.

For dividends paid by New Zealand franking companies, the amount of the dividend received or credited and the franking credit included in the assessable income of the trust can vary depending on whether or not the dividend is assessable. See the Foreign income return form guide 2013 to work out whether the dividend is assessable income.

If the dividend from the New Zealand company is assessable, you must declare it (including any supplementary dividend) as assessable foreign income even if dividend withholding tax was deducted in New Zealand. You can claim a foreign income tax offset for any New Zealand withholding tax paid on the dividend.

If the franked dividend from the New Zealand company is included in assessable income, the amount of the Australian franking credit on that dividend is also assessable income and you can claim a tax offset equal to that amount (subject to the exceptions described below).

If the recipient is entitled to a tax offset under section 207-45, the Australian franking credit is included in the assessable income of the recipient. The tax offset is reduced by the relevant amount of a supplementary dividend paid by the New Zealand company if:

- the supplementary dividend is paid in connection with the franked dividend
- the franked dividend and the supplementary dividend flow indirectly to the recipient because the recipient is a beneficiary or a trustee of a trust
- the recipient is entitled to foreign income tax offsets because of the distribution.

Australian resident shareholders are not entitled to a tax offset for New Zealand imputation credits which are attached to dividends paid by a New Zealand company. Australian resident shareholders are only entitled to a tax offset for Australian franking credits which are attached to those dividends.

Franking credit trading

For the franking credits to flow through to the beneficiaries both they and the trust must be qualified persons in relation to the dividend.

Qualified person

To be a qualified person in relation to a dividend a taxpayer must, during the relevant 'qualification period' (see below), hold the shares, or an interest in the shares, at risk for 45 days (90 days for certain preference shares) not counting the days on which the shares or interests were acquired or disposed of. This is sometimes referred to as the 'holding period rule'.

To hold the shares, or an interest in shares, at risk, the taxpayer must carry at least 30% of the risks of loss and opportunities for gain associated with the shares, or interest in the shares.

If the taxpayer does not have an obligation to make a payment in relation to a dividend (generally one passing the benefit of the dividend to another), the relevant qualification period for that dividend is the period beginning the day after the relevant shares or interests are acquired, and ending 45 days (90 days for certain preference shares) after the shares go ex-dividend. Otherwise, if the taxpayer is obliged to make, has made or is likely to make a related payment, the relevant qualification period is the period beginning 45 days (90 days for certain preference shares) before the shares go ex-dividend and ending 45 days (90 days for certain preference shares) after the shares go ex-dividend. This is sometimes referred to as the 'related payments rule'.

The holding period rule applies to shares acquired on or after 1 July 1997 (unless acquired under a contract entered into before 7.30pm Australian eastern standard time (AEST) on 13 May 1997) and the related payments rule applies to arrangements entered into after 7.30pm AEST on 13 May 1997.

Beneficiaries of trusts, other than family trusts and deceased estate trusts, will not pass these tests unless they hold a sufficient fixed interest in the shares to expose them to at least 30% of the risks and opportunities of owning the shares. They may, however, be eligible for the small shareholder exemption.

As an alternative to complying with the 45-day holding period rule, there are two other methods of attaining 'qualified person' status.

The first exempts individual shareholders with total franking credit entitlements of less than $5,000.

The second allows certain taxpayers to elect to have a ceiling applied to franking credit entitlements. These taxpayers include:

- the trustees of listed widely held unit trusts
- unlisted very widely held unit trusts
- trustees of complying superannuation funds
- complying approved deposit funds
- pooled superannuation trusts
- the statutory funds of life insurance companies.

The ceiling is based on a benchmark portfolio of shares. Certain investment vehicles primarily held by such taxpayers are also included.

General anti-avoidance rule

Section 177EA of the ITAA 1936 is a general anti-avoidance rule against franking credit trading and streaming. The rule applies where a more than incidental purpose of certain arrangements is to obtain a tax advantage in relation to franking credits.

For more information, see You and your shares 2013.

Franking credit

The franking credit from franking entities is shown at:

- **M** item **12** if received directly from a paying company
- **D** item **8** if received indirectly through a partnership or other trust.

Do not show the franking credit if the trustee was not a qualified person for the dividend.

Australian franking credits from a New Zealand franking company

The Australian franking credits attached to franked dividends received directly or indirectly from a New Zealand franking company are shown at **D** item **23**. For credits received indirectly through a partnership or other trust, do not show the franking credit if the trustee was not a qualified person or was otherwise unable to claim a franking credit.

Show expenses that are directly related to franked distributions from a New Zealand franking company at item **16 Deductions relating to: Franked distributions**. Expenses related to an unfranked distribution are shown at item **16 Deductions relating to: Australian investment income.**

Where a franked dividend is received by the trustee and included in the net income of the trust a share of which is assessable to a resident beneficiary, that beneficiary may be entitled to tax offset equal to their share of franking credits attached to the franked distributions, undiminished by the expenses of the trust.

A beneficiary's share of the franking credit on a franked dividend will depend on their entitlement to the dividend, having regard to the trust deed and any relevant trustee resolution.

For the franking credits to flow to a beneficiary, both the beneficiary and the trustee must be qualified persons (satisfying the holding period and related payments rules).

If the trustee is assessable under section 98 of the ITAA 1936 on behalf of a beneficiary, the trustee may be entitled to a tax offset equal to the beneficiary's share of the franking credits.

Where the trustee is assessed on a share of the net income under section 99 or 99A (providing the trustee is a qualified person in relation to the franked dividend) the trustee is also entitled to a share of the franking credit. The trustee's entitlement to the franking credit is proportional to the share of the franked dividend to which no beneficiary is presently entitled.

Where the amount of the franking credit to which the trustee is entitled exceeds the trustee’s basic income tax liability, the excess will only be refundable if the net income is assessed under section 99.

Non-resident beneficiaries

Non-resident presently or specifically entitled beneficiaries are not liable to pay any Australian tax on the franked amount of dividends. Unfranked dividends and the unfranked part of franked dividends, if any, are subject to withholding tax.

Share traders

Traders of shares (including non-share equity interests) who operated as a trust and received dividends during the income year must show them at item **12**.

Exempt dividends

Keep supporting records if the trust claims the whole or part of any dividend, bonus share issue or other distribution is exempt from tax, for example, because FTDT has been paid on the amount.

Foreign source dividends

Foreign source dividends (other than dividends from a New Zealand franking company) are not subject to the imputation rules. However, they are usually included in the assessable income of the trust. If the trust receives foreign source dividends, other than dividends that qualify as non-assessable non-exempt income under sections 23AI and 23AK, include these amounts at item **23**.

Unfranked dividends

An unfranked dividend may include the unfranked part of a partly franked dividend for reporting purposes.

Unfranked dividends and the TOFA rules

The TOFA rules may apply to some or all of the unfranked dividends that a trust receives. Where this is the case, such amounts are still shown at item **12 Dividends** and must also be shown at item **31 Taxation of financial arrangements (TOFA)**.

Appendix 2: Royalties

Royalties include consideration of any kind paid or credited for:

1. the use of, or right to use

a. any copyright, patent, design or model, plan, secret formula or process, trademark or other like property or right

b. industrial, commercial or scientific equipment

c. motion picture films

d. films or video tapes for use with television

e. tapes for use with radio broadcasting

f. visual images and or sounds transmitted by satellite, cable, optic fibre or other similar technology, in connection with television or radio broadcasting

g. capacity covered by a spectrum licence under the Radio Communications Act 1992

2. the supply of scientific, technical, industrial or commercial knowledge or information

3. the supply of any assistance that is ancillary and subsidiary to, and is furnished as a means of enabling the application or enjoyment of any property, right, equipment, knowledge or information mentioned in **1a**, **1b** or **2**

4. the reception of, or the right to receive, visual images or sounds transmitted to the public by satellite, cable, optic fibre or similar technology

5. the total or partial forbearance in respect of the previously listed activities.

Show royalties derived by an Australian resident as income in the normal manner.

Royalties paid by a resident to a non-resident may be subject to withholding tax. The rate for royalties is 30%; however if there is a double tax agreement, the rate may be reduced.

For more information on the definition of royalty, see IT 2660 *Income tax: definition of royalties*.

Record keeping

If the trust claims a deduction for royalties paid or credited, keep a record of the name and address and the amounts paid or due to each person. If payment was made to a non-resident, keep details on whether or not tax has been paid or an amount withheld to provide for tax payable by the non-resident.

Appendix 3: Thin capitalisation

The thin capitalisation provisions reduce certain expenditure (called 'debt deductions') incurred in obtaining and servicing debt where the debt used to finance the Australian operations of a trust exceeds the limits set out in Division 820 of the ITAA 1997. These rules ensure that taxpayers fund their Australian operations with an appropriate amount of equity.

What if the thin capitalisation rules apply?

If the thin capitalisation rules apply, the trust must complete the International dealings schedule 2013, unless the trust was a subsidiary member of a consolidated group for the entire income year.

Where the trust is a member of a consolidated group for the whole income year and the thin capitalisation rules apply, the responsibility for preparing the schedule will rest on the head company of the consolidated group.

Where a return is required because the trust had a period in the income year when it was not a member of a consolidated group (a non-membership period) the trust should complete an *International dealings schedule 2013* where the thin capitalisation rules apply to the trust during the non-membership period.

The International dealings schedule is available through the electronic lodgment service (ELS) – or complete and lodge the paper schedule.

What if the thin capitalisation rules are breached?

If the thin capitalisation rules are breached, some of the trust's debt deductions may be denied. The amount denied for business income is shown in **B Expense reconciliation adjustments** item **5**. If the trust incurred debt deductions for other types of income (for example, rental income, dividend income or foreign income) the amount of deductions shown at the relevant entries must exclude the debt deductions denied.

Appendix 4: Commercial debt forgiveness

If a commercial debt owed by the trust is forgiven during the income year, apply the net amount of debts forgiven to reduce the trust's tax losses, net capital losses, certain undeducted revenue or capital expenditure, and the cost base of CGT assets, in that order.

A debt is commercial if any part of the interest payable on it is or would be an allowable deduction if not for some specific exception provision. If interest is not payable, the debt is still a commercial debt if interest, if charged, would have been deductible.

A debt is forgiven if the trust's obligation to pay the debt is released or waived or otherwise extinguished other than by repaying the debt in full.

A debt is also forgiven if a creditor assigns it to an associate of the debtor, in certain other circumstances, or if the right to recover it ceases.

Calculation of net forgiven amount

Calculate the net forgiven amount as follows:

1. Determine the value of the debt. This is usually the lesser of the
   - value of the debt at the time of forgiveness (assuming the trust was solvent at the time the debt was incurred and the trust's creditworthiness has not changed from the time the debt was incurred), and
   - sum of the value of the debt at the time the debt was forgiven (based on the above assumptions and assuming that any market variables remain constant) and any amounts allowable as deductions because of the forgiveness of the debt that are attributable to changes in market variables. This might occur because of a decrease in value of the debt due

to market movements. Special rules apply in calculating the notional value of non-recourse debt and in respect of debt parking circumstances. See sections 245-60 and 245-61 of the ITAA 1997.

2. Calculate the gross forgiven amount of the debt by deducting from the value of the debt certain amounts in respect of the forgiveness. These amounts are normally the sum of the amounts of money the trust is required to pay in respect of the forgiveness or, if property is required to be given, the market value of the property. Special rules apply in determining the consideration given for the forgiveness if a debt is forgiven in exchange for shares, or if there are debt parking circumstances. See section 245-65 of the ITAA 1997.

3. Reduce the gross forgiven amount by any amount
    - which has been, is, or will be, included in the trust's assessable income as a result of the forgiven debt
    - by which a deduction otherwise allowable to the trust has been or will be reduced as a result of the forgiven debt except for a reduction under Division 727 (indirect value shifting) of the ITAA 1997, and
    - by which the cost base to the trust of any CGT asset has been or will be reduced as a result of the forgiveness of the debt under Part 3-1 or 3-3 of the ITAA 1997. The balance remaining is the net forgiven amount of that debt.

4. Add the net forgiven amount to the net forgiven amounts of other debts forgiven during the income year to arrive at the total net forgiven amount for the income year.

Application of total net forgiven amount

Apply this total net forgiven amount to reduce the amounts the trust has in the following categories, in the order listed:

- tax losses
- net capital losses
- expenditures, and
- cost bases of certain CGT assets.

Within each category, the trust may choose the loss, item of expenditure or asset against which the total net forgiven amount is applied, provided it is applied to the maximum extent possible within that category. Once the total net forgiven amount is applied against all the amounts in a category, apply any excess against the next category in the above order. If there is an excess remaining after applying the amount to the maximum extent possible against all categories, disregard this excess.

Tax losses

These are tax losses incurred by the trust in an earlier income year and undeducted at the beginning of the forgiveness year.

Net capital losses

These are unrecouped net capital losses incurred in income years before the forgiveness year.

Expenditures

Expenditures are limited to those incurred before the forgiveness year which remain undeducted but which, on conditions prevailing at the beginning of the forgiveness year, would be deductible in that year or future years. Expenditures mean:

- expenditure deductible under Division 40 of the ITAA 1997 (uniform capital allowances)
- expenditure incurred in borrowing money to produce assessable income
- expenditure on scientific research
- advance revenue expenditure
- expenditure on acquiring a unit of industrial property to produce assessable income
- expenditure on assessable income-producing buildings and other capital works.

There are two principal methods for reducing expenditures:

- If the deduction is calculated as a percentage of a base amount (for example, deductions for decline in value of depreciating assets calculated under the prime cost method), make the reduction to the base amount.
  - The effect is that deductions allowable in the forgiveness year and later years are reduced.
  - The total amount of deductions allowable is limited to the reduced base amount.
  - The amount of the reduction is treated as if it had been a deduction when calculating any required balancing adjustment amount.
- If the deduction for a particular expenditure is a percentage, fraction or proportion of an amount worked out after taking into account any deductions for the deductible expenditure previously allowed to the trust (for example, deductions for decline in value of depreciating assets calculated under the diminishing value method) the forgiven amount is taken to have been allowed as a deduction before the forgiveness income year.

If any deductions are disallowed under the ITAA 1936 or the ITAA 1997 as a result of recouping an expenditure, the total net forgiven amount by which the recouped expenditure was previously reduced is treated as assessable income in the year it is recouped.

Cost bases of certain CGT assets

The cost bases of certain CGT assets owned by the trust at the beginning of the forgiveness year may be reduced by the trust's total net forgiven amount, essentially, these are assets where a capital gain or capital loss might arise on a CGT event, such as disposal, happening to them.

Assets whose cost bases are not subject to reduction include those for which a capital gain or capital loss will not arise or is unlikely to arise if a CGT event happens to them, for example, CGT assets acquired before 20 September 1985, trading stock or a personal use asset within the meaning of section 108-20 of the ITAA 1997. Also excluded are CGT assets whose cost is deductible, such as depreciating assets.

The trust may choose the CGT assets whose cost bases are to be reduced and the extent of that reduction. However, the cost base of assets that constitute investments in associates of the trust must be reduced last. If a trust chooses to apply an amount to reduce either the cost base or the reduced cost base of a CGT asset, then at any time from the beginning of the forgiveness income year, each of the relevant cost bases (that is, the cost base or reduced cost base) is taken to be reduced.

Ordinarily, the reduction of a CGT asset's relevant cost base cannot exceed the amount that would have been the reduced cost base of the asset, calculated as if the asset was disposed of at market value on the first day of the forgiveness income year. However, a special rule applies (see subsection 245-190(3) of the ITAA 1997) if an event occurred after the first day of the forgiveness year that would cause the reduced cost base of the asset to be reduced.

The reduction of the relevant cost base of a CGT asset affects the calculation of the amount of the capital gain or capital loss on a CGT event happening to the nominated CGT asset because the relevant cost base that is taken into account in determining the capital gain or capital loss must reflect that reduction.

Appendix 5: Capital works deductions and infrastructure tax offsets

Capital works deductions

Division 43 of the ITAA 1997 provides for a system of deducting capital expenditure incurred in the construction of capital works used to produce assessable income.

Capital works

You can deduct construction costs for the following capital works:
- buildings or extensions, alterations or improvements to a building
- structural improvements (such as bridges, retaining walls and sealed roads) or extensions, alterations or improvements to structural improvements
- environmental protection earthworks – see also appendix 6.

You must base deductions for construction costs and structural improvements on actual costs incurred. If it is not possible to genuinely determine the actual costs, provide an estimate by a quantity surveyor or other independent qualified person. The costs incurred by the trust for providing this estimate are deductible as a tax-related expense, not as an expense in gaining or producing assessable income.

Who can claim?

You can only claim a deduction under Division 43 for an income year if the trust:
- owns, leases or holds part of a construction expenditure area of capital works ('your area')
- incurred the expense, or is an assignee of the lease or holder who incurred the expense, and
- uses your area to produce income.

In calculating the trust's deduction, identify your area for each construction expenditure area of the capital works. Your area may comprise the whole or part of the construction area.

Lessee or holder of capital works

You can claim a deduction for an area leased or held under a quasi-ownership right by the lessee or holder. To claim a deduction, the lessee or holder must have:

- incurred the construction expenditure or be an assignee of the lessee or holder who incurred the expenditure
- continuously leased or held the capital works area itself, or leased or held the area that had been so held by previous lessees, holders or assignees since completion of construction, and
- used the area to produce assessable income.

If there is a lapse in the lease, the entitlement to the deduction reverts to the building owner.

Requirement for deductibility

A trust can deduct an amount for capital works in an income year if:
- the capital works have a 'construction expenditure area'
- there is a 'pool of construction expenditure' for that area, and
- it uses the area in the income year to produce assessable income in the way set out in section 43-140 of the ITAA 1997.

No deduction until construction is complete

You cannot claim a deduction for any period before the construction of capital works is complete even though the trust used them, or part of them, before completion. Additionally, the deduction cannot exceed the undeducted construction expenditure for your area.

Capital works are taken to have started when the first step in the construction phase starts, for example, the pouring of foundations or sinking of pilings for a building.

Establishing the deduction base

Expenditure for the construction of capital works is deductible if there is a construction expenditure area for the capital works. Whether there is such an area and how it is identified depends on:
- the type of expenditure incurred (only construction expenditure is deductible under Division 43 of the ITAA 1997)
- the time the capital works started
- the area of the capital works to be owned, leased or held by the entity that incurred the expenditure, and
- for capital works begun before 1 July 1997, the area of the capital works that was at the time of completion intended to be used in a particular manner, see section 43–90 of the ITAA 1997.

Construction expenditure

Construction expenditure includes:
- preliminary expenses, such as architect's fees, engineering fees, foundation excavation expenses and costs of building permits
- costs of structural features that are an integral part of the income-producing building or income producing structural improvements, such as lift wells and atriums
- some portion of indirect costs.

For an owner/builder entitled to a deduction under Division 43 of the ITAA 1997, the value of their contributions to the work (labour or expertise and any notional profit element) do not form part of construction expenditure – see TR 97/25 *Income tax: property development: deduction for capital expenditure on* *construction of income producing capital works, including buildings and structural improvements and addendum*.

Construction expenditure does not include expenditure on:

- acquiring land
- demolishing existing structures
- clearing, levelling, filling, draining or otherwise preparing the construction site before carrying out excavation work
- landscaping
- plant
- property or expenditure for which a deduction is allowable or would be allowable if the property were to be used for producing assessable income under another specified provision of the ITAA 1936 or the ITAA 1997.

Construction expenditure area

The construction of the capital works must be complete before the construction expenditure area is determined. A separate construction expenditure area is created each time an entity undertakes the construction of capital works.

For construction expenditure before 1 July 1997, the capital works must have been constructed for a specified use at the time of completion, depending upon the time when the capital works started.

The first specified use construction time was 22 August 1979, see table 43-90 and subsection 43-75(2) of the ITAA 1997. No deduction is available under Division 43 of the ITAA 1997 for capital works which were begun on 21 August 1979 or earlier: see subsection 43-20(1) of the ITAA 1997.

Pool of construction expenditure

The pool of construction expenditure is the portion of the construction expenditure incurred by an entity on capital works which is attributable to the construction expenditure area.

Deductible use

You can only claim a deduction under this Division if the trust uses your area in a way described in table 43-140 or 43-145 of Subdivision 43-D of the ITAA 1997.

Special rules about uses

Your area is taken to be used for a particular purpose or manner if:

- it is maintained ready for that use, is not used for another purpose, and its use has not been abandoned
- its use has temporarily ceased, for example, because of construction or repairs, or seasonal or climatic conditions.

Your area is not accepted as being used to produce assessable income:

- if it is a building (other than a hotel or apartment building) used for exhibition or display in connection with the sale of all or part of any building, where construction began after 17 July 1985 but before 1 July 1997. If construction started after 30 June 1997, buildings that are used for display are eligible
- if it is a building (other than a hotel or apartment building) where the construction began after 19 July 1982 and before 18 July 1985 and which is used or available for use wholly or mainly:
    - for, or in association with, residential accommodation, and it is not a hotel or apartment building

    - for exhibition or display in connection with the sale of all or part of any building, or the lease of all or any part of any building for use wholly or mainly for, or in association with, residential accommodation and is not a hotel or apartment building or an extension, alteration or improvement to such a building
- to the extent that the trust or an associate uses part of it for residential accommodation and it is not a hotel or apartment building, for exceptions to this rule, see subsection 43-170(2) of the ITAA 1997.

Your area is taken to be used wholly or mainly as, or in association with residential accommodation, if it is:
- part of an individual's home (other than a hotel or apartment building)
- a building (other than a hotel or apartment building) where construction began after 19 July 1982 and before 18 July 1985, and used as a hotel, motel or guest house.

Special rules for hotels and apartments are contained in section 43-180 of the ITAA 1997.

Calculation and rate of deduction

The entitlement to a deduction begins on the date your area is first used to produce assessable income after construction is completed. The first and last years of use may be apportioned. The entitlement to a deduction runs for either 25 or 40 years (the limitation period) depending upon the rate of deduction applicable.

The legislation contains two calculation provisions:
- section 43-210 of the ITAA 1997 deals with the deduction for capital works which began after 26 February 1992
- section 43-215 of the ITAA 1997 deals with deductions for capital works which began before 27 February 1992.

Capital works begun before 27 February 1992 and used as described in table 43-140

Calculate the deduction separately for each part that meets the description of your area.

Multiply the construction expenditure by the applicable rate (either 4% if the capital works began after 21 August 1984 and before 16 September 1987 or 2.5% in any other case) and by the number of days in the income year in which the trust owned, leased or held your area and used it in a relevant way. Divide that amount by the number of days in the year.

Apportion the amount if your area is used only partly to produce assessable income.

The amount claimed cannot exceed the undeducted construction expenditure.

Capital works begun after 26 February 1992

Calculate the deduction separately for each part of capital works that meets the description of your area.

There is a basic entitlement to a rate of 2.5% for parts used as described in table 43-140 (current year use). The rate increases to 4% for parts used as described in table 43-145 (use in the 4% manner).

Undeducted construction expenditure

The undeducted construction expenditure for your area is the part of the construction expenditure the trust has left to write off. Use it to work out the:

- number of years in which the trust can deduct amounts for its construction expenditure, and
- amount that the trust can deduct under section 43-40 of the ITAA 1997 if your area or a part of it is destroyed.

Balancing deduction on destruction

If a building is destroyed or damaged during an income year, you can claim the remaining amount of undeducted construction expenditure that has not yet been deducted, less any compensation received. This applies even if the destruction or demolition is voluntary.

You can claim the deduction in the income year in which the destruction occurs.

The deduction is reduced where the capital works are used in an income year only partly for the purpose of producing assessable income.

For guidelines on these measures, see TR 97/25 and addendum.

Infrastructure borrowings

The previous infrastructure borrowings tax concession, which was introduced in 1992 to facilitate private sector investment in certain publicly accessible infrastructure projects, was closed to new projects from 14 February 1997. The provisions relating to the concession are contained in Division16L of the ITAA 1936, and Chapter 3 of the Development Allowance Authority Act 1992.

The lender's interest and amounts in the nature of interest on infrastructure borrowings are not assessable. Alternatively, the lender may choose to be assessed on the amounts and to claim a tax offset of 30%. The borrower's interest and amounts in the nature of interest on the infrastructure borrowings are not deductible. In addition, any profit on the disposal of an infrastructure borrowings instrument is non-assessable and any loss is non-deductible.

The replacement land transport infrastructure tax offset in Division 396 of the ITAA 1997 is a more restricted concession: it is a tax offset on the taxable interest of a resident lender to an approved infrastructure project. The offset is calculated by applying the general company tax rate to the lender's assessable interest, but may be subject to an upper limit set by the Minister for Infrastructure and Transport.

If the lender's interest is subject to a tax offset, the project borrower cannot claim a deduction for a comparable amount of interest.

Appendix 6: Uniform capital allowances

This appendix refers to the following uniform capital allowance (UCA) topics:

- balancing adjustment amounts
- deduction for decline in value of depreciating assets
- deduction for environmental protection expenses
- deduction for project pool
- electricity connections and telephone lines
- grapevines and horticultural plants
- hire-purchase agreements

- landcare operations and deductions for decline in value of water facility
- limited recourse debt
- loss on the sale of a depreciating asset
- low-value pools
- luxury car leases
- profit on the sale of a depreciating asset
- section 40-880 deduction
- the TOFA rules and UCA.

For more information on any of these topics, see the Guide to depreciating assets 2013.

Small business entities

Eligible small business entities that choose to use the simplified depreciation rules calculate deductions for most of their depreciating assets under the specific small business entity depreciation rules.

Balancing adjustment amounts

If the trust ceases to hold or to use a depreciating asset, a balancing adjustment event may occur. For assets subject to the small business entity depreciation rules, see Step 6 Disposal of depreciating assets. For assets not subject to these rules, the trust will need to calculate a balancing adjustment amount to include in its assessable income or to claim as a deduction. Show an assessable balancing adjustment amount as an income add back at **A Income reconciliation adjustments** item **5**. Show a deductible balancing adjustment amount as an expense subtraction at **B Expense reconciliation adjustments** item **5**.

If the asset was used for both taxable and non-taxable purposes, reduce the balancing adjustment amount by the amount attributable to the non-taxable use. A capital gain or capital loss may arise which is attributable to that non-taxable use.

Show any profit or loss on the sale of a depreciating asset that has been included in the accounts of the trust as either an income subtraction at **A Income reconciliation adjustments** item **5** or an expense add back at **B Expense reconciliation adjustments** item **5**, see Profit on the sale of a depreciating asset and Loss on the sale of a depreciating asset.

If you have elected to use the hedging tax-timing method provided for in the TOFA rules and you have a gain or loss from a hedging financial arrangement used to hedge risks in relation to a depreciating asset, work out the gain or loss allocated under the TOFA rules and show the amount at **A Income reconciliation adjustments** or **B Expense reconciliation adjustments** when calculating the depreciating asset's balancing adjustment amount.

Also include the gain or loss on the hedging financial arrangement at item **31 Taxation of financial arrangements (TOFA)**.

For more information, see Guide to the taxation of financial arrangements (TOFA) rules and the Guide to depreciating assets 2013.

If a balancing adjustment event occurred to a depreciating asset of the trust during the income year, you may need to include an amount at **H** or **I** item **48**.

Deduction for decline in value of depreciating assets

For assets subject to the small business entity depreciation rules, see Depreciation expenses, Small business entities. For assets not subject to the small business entity depreciation rules, the decline in value is generally worked out using either the prime cost or diminishing value method. Both methods are based on the effective life of an asset. For most depreciating assets, the trust can choose whether to self-assess the effective life or to adopt the Commissioner's determination in TR 2012/2 *Income Tax: effective life of depreciating assets (applicable from 1 July 2012)*.

The trust can deduct an amount equal to the decline in value of a depreciating asset for the period that it holds the asset during the income year. However, the deduction is reduced to the extent the asset is used or installed ready for use for other than a taxable purpose.

If you have elected to use the hedging tax-timing method provided for in the TOFA rules and you have a gain or loss from a hedging financial arrangement used to hedge risks in relation to a depreciating asset, then the amounts shown at **A Income reconciliation adjustments** and **B Expense reconciliation adjustments** will also need to take into account the effect of that gain or loss from the hedging financial arrangement.

Also include the gain or loss on the hedging financial arrangement at item **31 Taxation of financial arrangements (TOFA)**.

The decline in value of a depreciating asset costing $300 or less is its cost (but only to the extent the asset is used for a taxable purpose) if the asset satisfies all of the following requirements:

- it is used predominantly for the purpose of producing assessable income that is not income from carrying on a business
- it is not part of a set of assets acquired in the same income year that costs more than $300, and
- it is not one of any number of substantially identical items acquired in the same income year that together cost more than $300.

You can allocate certain assets that cost less than $1,000 or that have an opening adjustable value of less than $1,000 to a low-value pool to calculate the decline in value. You cannot allocate assets eligible for the immediate deduction to a low-value pool.

If the trust is not using the small business entity depreciation rules, show the deduction for decline in value of depreciating assets used in carrying on a business as an expense subtraction at **B Expense reconciliation adjustments** item **5**.

This amount is often different from the amount of depreciation calculated for accounting purposes shown at **K** item **5**, so you will need to include the amount at **K** as an expense add back at **B Expense reconciliation adjustments** item **5**.

Show deductions for the decline in value of depreciating assets used to earn rental income, earn interest or dividends or used by the trust in the management of its tax affairs at **H** item **9**, item **16 Deductions, Deductions relating to Australian investment income**, or item **18 Other deductions**, respectively.

For information about where to show deductions for depreciating assets in a low-value pool, see Low-value pools.

Foreign currency gains and losses

If you purchased a depreciating asset in foreign currency, the first element of the asset's cost is converted to Australian currency. From 1 July 2003, if the foreign currency amount became due for payment within the 24-month period that began 12 months before the time when you began to hold the depreciating asset, any realised foreign currency gain or loss (referred to as a forex realisation gain or a forex realisation loss) can modify the asset's cost, opening adjustable value, or the opening balance of your low-value pool, as the case may be.

However, if the foreign currency amount relates to the second element of the cost of a depreciating asset, the translation to Australian currency is made at the exchange rate applicable at the time you incurred the relevant expenditure and a 12-month rule instead of a 24-month rule applies. The 12-month rule requires that the foreign currency became due for payment within 12 months after the time you incurred the relevant expenditure. In some circumstances, you may be able to elect that forex gains and losses do not modify the asset's cost, opening adjustable value or the opening balance of your low-value pool.

For more information, see Forex: election out of the 12 month rule (NAT 9344).

Water facility, grapevine or horticultural plant

If a trust can claim a deduction for the decline in value of a water facility, a grapevine or a horticultural plant, the amount is part of the deduction for the decline in value of depreciating assets included either at **K Depreciation expenses** item **5** for small business entities using the simplified depreciation rules, or as an expense subtraction at **Reconciliation items**, **B Expense reconciliation adjustments** item **5**. You will also need to include the amount of a deduction for the decline in value of a water facility at **L** item **48 Capital allowances. Landcare operations and deduction for decline in value of water facility**.

For more information, see Landcare operations and decline in value of water facility and Grapevines and horticultural plants.

To calculate the deduction for the decline in value of most depreciating assets, use **worksheet 1** and **worksheet 2** in the Guide to depreciating assets 2013.

Deduction for environmental protection expenses

The trust can deduct expenditure incurred for the sole or dominant purpose of carrying on environmental protection activities (EPA). EPA are activities undertaken to prevent, fight or remedy pollution or to treat, clean up, remove or store waste from the trust's earning activity. The earning activity is one the trust's carried on, carries on, or proposes to carry on for the purpose of:

- producing assessable income (other than a net capital gain)
- exploration or prospecting
- mining site rehabilitation.

The trust may claim a deduction for cleaning up a site on which a predecessor carried on substantially the same business activity.

The deduction is not available for:

- EPA bonds and security deposits
- expenditure for acquiring land
- expenditure for constructing or altering buildings, structures or structural improvements
- expenditure to the extent that the trust can deduct an amount for it under another provision.

Expenditure which forms part of the cost of a depreciating asset is not expenditure on EPA.

You can write off expenditure incurred on or after 19 August 1992 on certain earthworks constructed as a result of carrying out EPA at the rate of 2.5% per annum under the provisions for capital works expenditure.

You cannot claim a deduction for expenditure on an environmental assessment of a project of the trust as expenditure on EPA. If it is capital expenditure directly connected with a project, it could be a project amount for which a deduction would be available over the project life, see Deduction for project pool.

If the deduction arises from a non-arm's length transaction and the expenditure is more than the market value of what it was for, the amount of the expenditure is instead taken to be that market value.

Include any recoupment of the expenditure as assessable income at **G** or **H Other business income** item **5**, or as an income add back at **A Income reconciliation adjustments** item **5**.

Include the deduction for environmental protection expenses at **N** item **5** or as an expense subtraction at **A Expense reconciliation adjustments** item **5**.

Deduction for project pool

You can allocate certain capital expenditure incurred after 30 June 2001 directly connected with a project that is carried on, or proposed to be carried on, for a taxable purpose to a project pool and write it off over the project life.

A project is carried on if it involves a continuity of activity and active participation, however, merely holding a passive investment, such as a rental property, would not be regarded as carrying on a project.

The capital expenditure, known as a project amount, must be expenditure incurred:

- to create or upgrade community infrastructure for a community associated with the project, this expenditure must be paid, not just incurred, to be a project amount
- for site preparation for depreciating assets (other than in draining swamp or low-lying land or in clearing land for horticultural plants including grapevines)
- for feasibility studies for the project
- for environmental assessments for the project
- to obtain information associated with the project
- in seeking to obtain a right to intellectual property
- for ornamental trees or shrubs.

Project amounts include mining capital expenditure and transport capital expenditure.

The expenditure must not otherwise be deductible or form part of the cost of a depreciating asset.

If the expenditure incurred arises from a non-arm's length dealing and is more than the market value of what it was for, the amount of the expenditure is taken to be that market value.

The deduction for project amounts allocated to a project pool commences when the project starts to operate.

If your project pool contains only project amounts incurred on or after 10 May 2006, and the project starts to operate on or after that date, your deduction is calculated as follows:

$$\frac{\text{pool value} \times 200\%}{\text{DV project pool life}}$$

Certain projects may be taken to have started to operate before 10 May 2006, for example, if a project is abandoned and then restarted on or after 10 May 2006 just so deductions can be calculated using the above formula.

For other project pools, the deduction is calculated using the following formula:

$$\frac{\text{pool value} \times 150\%}{\text{DV project pool life}}$$

The **DV project pool life** is the project life or, if that life has been recalculated, the most recently recalculated project life. Determine the project life by estimating how long (in years and fractions of years) it will be from when the project starts to operate until it stops operating. Generally, a project starts to operate when the activities that will produce assessable income start. The project life is estimated from the perspective of the trust, but the event used to determine when the project will stop operating must be something outside its control.

The **pool value** for an income year is broadly the sum of the project amounts allocated to the pool up to the end of that year, less the sum of the deductions claimed for the project pool in previous years, or that could have been claimed had the project operated wholly for a taxable purpose.

The pool value can be subject to adjustments.

If there is an entitlement to a GST input tax credit for expenditure allocated to a project pool, reduce the pool value by the amount of the credit. You will need to adjust the pool value for certain increasing or decreasing adjustments for expenditure allocated to a project pool.

The pool value can be subject to adjustment under the forex provisions. A relevant foreign exchange (forex) gain or loss may arise if, during an income year beginning on or after 1 July 2003, the trust ceased to have an obligation to pay foreign currency where the obligation was incurred as a project amount allocated to a project pool. If the amount was incurred after 30 June 2003 (or earlier, if so elected) and became due for payment within 12 months after it was incurred, then the pool value for the income year in which the amount was incurred is increased by any forex loss, and decreased by any forex gain. If the forex gain exceeds the pool value, reduce the pool value to zero and the excess gain is assessable, this is known as 'the 12 month rule'. In limited circumstances, a trust may elect out of the 12 month rule.

For more information, see Forex: election out of the 12 month rule. If it has been

elected that the 12 month rule should not apply, any forex gain will be assessable and any forex realisation loss will be deductible in accordance with the forex measures.

For more information, see Foreign exchange (forex).

The deduction for project amounts allocated to a project pool cannot be more than the amount of the pool value for that income year.

There is no need to apportion the deductions if the project starts to operate during the income year for project amounts incurred during the year. However, the deduction is reduced for the extent to which the project is operated for other than a taxable purpose during the income year.

If the project is abandoned, sold or otherwise disposed of, you can claim a deduction for the sum of the closing pool value of the prior income year (if any), plus any project amounts allocated to the pool during the income year, after allowing for any necessary pool value adjustments. A project is abandoned if it stops operating and will not operate again.

Any amount received for the abandonment, sale or other disposal of a project is assessable income.

If an amount of capital expenditure allocated to a project pool is recouped, or if a capital amount is derived in relation to a project amount or something on which a project amount was expended, include the amount in assessable income.

If any receipt arises from a non-arm's length dealing and the amount is less than the market value of what it was for, the amount received is taken to be that market value.

Include any deduction for a project pool as an expense subtraction at **B Expense reconciliation adjustments** item **5**. You must show the deduction at label **J Deduction for project pool, item 48 Capital allowances**.

The trust must add back any capital expenditure allocated to the pool that has been included as an expense at item **5**. Show the amount as an expense add back at **B Expense reconciliation adjustments** item **5**.

Include assessable income at **G** or **H Other business income** item **5** or as an income add back at **A Income reconciliation adjustments** item **5**.

Electricity connections and telephone lines

A trust can claim a deduction over 10 years for capital expenditure incurred in connecting:

- mains electricity to land on which a business is carried on, or in upgrading an existing connection to that land
- a telephone line to land being used to carry on a primary production business.

Show the deduction as an expense subtraction at **Reconciliation items**, **B Expense reconciliation adjustments** item **5**.

The trust must add back any capital expenditure on electricity connections and phone lines included as an expense at item **5**. Show the amount as an expense add back at **B Expense reconciliation adjustments** item **5**.

Any recoupment of the expenditure is included as assessable income at **G** or **H** Other business income item **5**, or as an income add back at **Reconciliation items**, **A Income reconciliation adjustments** item **5**.

Grapevines and horticultural plants

Any grapevines planted and used in a primary production business prior to 1 October 2004 are deductible using an annual rate of 25%.

For grapevines planted on or after 1 October 2004:

- Deductions for the decline in value of a grapevine can only be claimed from the income year in which the grapevine's first commercial season starts, not when it is first used in a primary production business.
- The decline in value of a grapevine will not be worked out at an annual rate of 25%, but will be based on the effective life of the grapevine.

The Commissioner has determined effective lives for grapevines as follows:

Table 6.1	
Horticultural plants	**Effective life (years)**
Grapevines, dried grapes	15
Grapevines, table grapes	15
Grapevines, wine grapes	20

The income tax law provides an annual write-off rate of 13% for a horticultural plant with an effective life of 13 to fewer than 30 years.

Alternatively, a taxpayer can estimate their own effective life for grapevines.

The deduction for the decline in value of grapevines and horticultural plants is part of the deduction for decline in value of depreciating assets which is included either at **K Depreciation expenses** item **5** if the trust is using the small business entity depreciation rules, or as an expense subtraction at **Reconciliation items**, **B Expense reconciliation adjustments** item **5**.

If the trust has included any expenditure on establishing grapevines or horticultural plants as an expense at item **5**, include that amount as an expense add back at **B Expense reconciliation adjustments** item **5**.

Hire-purchase agreements

Hire-purchase and instalment-sale agreements of goods are treated as a sale of the property by the financier (or hire-purchase company) to the hirer (or instalment purchaser).

The sale is treated as being financed by a loan from the financier to the hirer at a sale price of either their agreed cost or the arm's length value of the property. The periodic hire-purchase (or instalment) payments are treated as payments of principal and interest under the notional loan. The hirer can claim a deduction for the interest component, subject to any reduction required under the thin capitalisation rules.

In relation to the notional sale, the hirer of a depreciating asset may be entitled to claim a deduction for the decline in value. The cost of the asset for this purpose is taken to be the agreed cost or value, or the arm's length value if the dealing is not at arm's length. For assets subject to the small business entity depreciation rules, see Small business entities. For assets not subject to the small business entity depreciation rules, see Deduction for decline in value of depreciating assets.

If the trust has included any hire-purchase charges for the goods at item **5,** include the amount at **B Expense reconciliation adjustments** item **5** as an expense add back. Include the deduction for the interest component of the hire-purchase payments as an expense subtraction at **B**.

Landcare operations and decline in value of water facility

A trust can claim deductions for landcare operation expenditure and expenditure for water facilities, see Landcare operations and Water facilities.

Include the deduction for landcare operations either at **N All other expenses** item **5** or as an expense subtraction at **B Expense reconciliation adjustments** item **B**.

The deduction for decline in value of a water facility is part of the trust's deduction for decline in value of depreciating assets which is included either at **K Depreciation expenses** item **5** for small business entities using the simplified depreciation rules, or as an expense subtraction at **B Expense reconciliation adjustments** item **5**.

Also show the amount of deductions for landcare operations and the decline in value of a water facility at **L**, item **48 Landcare operations and deduction for decline in value of water facility**.

If any capital expenditure on water facilities is included as an expense at item **5**, you will need to include that amount as an expense add back at **B Expense reconciliation adjustments** item **5**.

Include any recoupment of expenditure on landcare operations or water facilities as assessable income at **G** or **H Other business income** item **5**, or as an income add back at **Reconciliation items**, **A Income reconciliation adjustments** item **5**.

Landcare operations

Landcare operations cover what were previously known as land degradation measures. The trust can claim a deduction in the year it incurs capital expenditure on a landcare operation for land in Australia.

Unless the trust is a rural land irrigation water provider, the deduction is available to the extent the trust uses the land for either:
- a primary production business
- in the case of rural land, a business for the purpose of producing assessable income from the use of that land, except a business of mining or quarrying.

The trust may claim the deduction even if it is only a lessee of the land.

The deduction for landcare operations has been extended to rural land irrigation water providers for certain expenditure they incur on or after 1 July 2004. A rural land irrigation water provider is an entity whose business is primarily and principally supplying water to entities for use in primary production businesses on land in Australia or businesses (except mining or quarrying businesses) using rural land in Australia. The supply of water by using a motor vehicle is excluded.

If the trust is a rural land irrigation water provider, it can claim a deduction for capital expenditure on a landcare operation for:

- land in Australia that other entities use at the time for carrying on primary production businesses
- rural land in Australia that other entities use at the time for carrying on businesses for a taxable purpose from the use of that land (except a business of mining or quarrying), being entities supplied with water by the trust.

A rural land irrigation water provider's deduction is reduced by a reasonable amount to reflect an entity's use of the land for other than a taxable purpose after the water provider incurred the expenditure.

A landcare operation is one of the following:

- erecting fences to separate different land classes in accordance with an approved land management plan
- erecting fences primarily and principally to keep out animals from areas affected by land degradation to prevent or limit further damage and assist in reclaiming the areas
- constructing a levee or similar improvement
- constructing drainage works (other than the draining of swamps or low-lying land) primarily and principally to control salinity or assist in drainage control
- an operation primarily and principally for eradicating or exterminating animal pests from the land
- an operation primarily and principally for eradicating, exterminating or destroying plant growth detrimental to the land
- an operation primarily and principally for preventing or combating land degradation other than by the use of fences
- an extension, alteration or addition to any of the assets described in the first four dot points or an extension of an operation described in the fifth to seventh dot points.

The meaning of landcare operation has been extended to apply to expenditure incurred on or after 1 July 2004 on:

- a repair of a capital nature to an asset which is deductible under a landcare operation
- constructing a structural improvement that is reasonably incidental to levees or drainage works deductible under a landcare operation
- a repair of a capital nature, or an alteration, addition or extension to a structural improvement that is reasonably incidental to levees (or similar improvements) or drainage works deductible under a landcare operation.

An example of a structural improvement that may be reasonably incidental to drainage works is a fence constructed to prevent livestock entering a drain that was constructed to control salinity.

The trust cannot claim a deduction if the capital expenditure is on plant, unless it is on certain fences, dams or other structural improvements.

If a levee is constructed primarily and principally for water conservation, it would be a water facility and no deduction would be allowable under these rules. Its decline in value would need to be worked out under the rules for water facilities.

Water facilities

The trust can claim a deduction for the decline in value of a water facility. A water facility is plant or a structural improvement, or an alteration, addition or extension to plant or a structural improvement, that is primarily or principally for the purpose of conserving or conveying water, examples of water facilities are dams, tanks, tank stands, bores, wells, irrigation channels, pipes, pumps, water towers and windmills. The meaning of water facility has been extended to include certain other expenditure incurred on or after 1 July 2004:

- a repair of a capital nature to plant or a structural improvement that is primarily or principally for the purpose of conserving or conveying water, for example, if the trust purchases a pump that needs substantial work done to it before it can be used in the business, the cost of repairing the pump may be treated as a water facility
- a structural improvement, or an alteration, addition, extension, to a structural improvement, that is reasonably incidental to conserving or conveying water
- a repair of a capital nature to a structural improvement that is reasonably incidental to conserving or conveying water.

Examples of structural improvements that are reasonably incidental to conserving or conveying water include a bridge over an irrigation channel, a culvert (a length of pipe or multiple pipes that are laid under a road to allow the flow of water in a channel to pass under the road), or a fence preventing livestock from entering an irrigation channel.

A deduction for the decline in value of a water facility can be claimed in equal instalments over three years.

Unless the trust is an irrigation water provider, the expenditure must be incurred primarily and principally for conserving or conveying water for use in a primary production business the trust conducts on land in Australia. The trust may claim the deduction even if it is merely a lessee of the land.

The deduction is reduced where the facility is not wholly used for either:

- carrying on a primary production business on land in Australia
- a taxable purpose, for example, producing assessable income.

The deduction for water facilities has been extended to irrigation water providers for expenditure incurred on or after 1 July 2004. An irrigation water provider is an entity whose business is primarily and principally the supply of water to entities for use in primary production businesses on land in Australia. The supply of water by using a motor vehicle is excluded.

If the trust is an irrigation water provider, it must incur the expenditure primarily and principally for the purpose of conserving or conveying water for use in primary production businesses conducted by other entities on land in Australia, being entities supplied with water by the trust. The deduction is reduced if the facility is not used wholly for a taxable purpose.

Limited recourse debt

Under Division 243 of the ITAA 1997 (the limited recourse debt rules) you must include excessive deductions for capital allowances as assessable income if expenditure on property has been financed or refinanced wholly or partly by limited recourse debt. This will occur if:

- the limited recourse debt is terminated after 27 February 1998, but has not been paid in full by the debtor, and
- because the debt has not been paid in full, the capital allowance deductions allowed for the expenditure exceed the deductions that would be allowable if the unpaid amount of the debt was not counted as capital expenditure of the debtor. Special rules apply in working out whether the debt has been fully paid.

A limited recourse debt is a debt where the rights of the creditor against the debtor in the event of default in payment of the debt or of interest are limited wholly or predominantly to the property that has been financed by the debt, or is security for the debt, or rights in relation to such property. A debt is a limited recourse debt if, notwithstanding that there may be no specific conditions to that effect, it is reasonable to conclude that the creditor's rights against the debtor are capable of being limited in that way.

A limited recourse debt includes a notional loan under a hire-purchase or instalment-sale agreement of goods to which Division 240 of the ITAA 1997 applies (see section 243-20 of the ITAA 1997). The rules in section 243-75 apply where Divisions 243 and 245 (commercial debt forgiveness, see appendix 4) of the ITAA 1997 both apply to the same debt.

Loss on the sale of a depreciating asset

Any such loss included in the accounts will differ from the balancing adjustment amount taken into account for taxation purposes.

If the accounts show a loss on the sale of a depreciating asset under **N** item **5** show that amount as an expense add back at **B Expense reconciliation adjustments** item **5** – see Balancing adjustment amounts.

Low-value pools

If the trust has allocated depreciating assets used for different income-producing purposes to its low-value pool (for example, some assets that are used for producing rental income and others that are used in carrying on a business) show the low-value pool deduction at item **18 Other deductions**. However, if all the depreciating assets in the low-value pool are used for the same income-producing purpose, show the deduction for decline in value of the assets in the pool as follows:

- depreciating assets used in carrying on a business – show the deduction as an expense subtraction at **B Expense reconciliation adjustments** item **5**
- depreciating assets used to produce rental income – show the deduction at **H** item **9**
- depreciating assets used to produce Australian investment income – show the deduction at **P** item **16 Deductions relating to Australian investment income**.

To calculate the deduction for decline in value of depreciating assets in a low-value pool, use **worksheet 2** in the Guide to depreciating assets 2013.

Luxury car leases

Luxury car leasing arrangements (other than genuine short-term hire arrangements) are treated as a notional sale and loan transaction.

A leased car, either new or second-hand, is a luxury car if its cost exceeds the car limit that applies for the income year in which the lease commences. The car limit for 2012–13 is $59,133.

The cost or value of the car specified in the lease is its market value at the start of the lease.

For the notional loan, divide the actual lease payments into notional principal and finance charge components. Depending on how much the car is used for a deductible purpose, the lessee can claim a deduction for that part of the finance charge component for the notional loan applicable for the particular period (the accrual amount), subject to any reduction required under the thin capitalisation rules.

For the notional sale, the lessee is treated as the holder of the luxury car and may be entitled to claim a deduction for the decline in value of the car.

For the purpose of calculating the deduction, the cost of the car is limited to the car limit for the income year in which the lease is granted. For information about where to show the deduction for decline in value, see Deduction for decline in value of depreciating assets.

Alternatively, if the lessee is using the small business entity depreciation rules for the income year in which the lease is entered into, the lessee allocates the car to its general small business pool. For the purpose of calculating the deduction under the small business entity depreciation rules, the cost of the car is limited to the car limit for the income year in which the lease is granted.

In summary, the lessee is entitled to deductions equal to:
- the accrual amount, and
- the decline in value of the luxury car, based on the applicable car limit, unless the car is allocated to the general small business pool.

Both deductions are reduced to reflect any use of the car for other than a taxable purpose.

If the car is allocated to the general small business pool with the cost based on the applicable car limit, calculate the deduction under the small business entity depreciation rules.

If the lease terminates or is not extended or renewed and the lessee does not actually acquire the car from the lessor, the lessee is treated under the rules as disposing of the car by way of sale to the lessor, this constitutes a balancing adjustment event. If the car is not subject to the small business entity depreciation rules, you must determine any assessable or deductible balancing adjustment amount for the lessee. If the car has been allocated to the lessee's general small business pool, see Step 6 Disposal of depreciating assets.

If you included luxury car lease payments at **G Lease expenses** item **5**, include the amount at **B Expense reconciliation adjustments** item **5** as an expense add back. Include the deduction for the accrual amount as an expense subtraction at **B Expense reconciliation adjustments** item **5**.

Profit on the sale of a depreciating asset

Any such profit included in the accounts will differ from the balancing adjustment amount taken into account for taxation purposes.

If the accounts show a profit on the sale of a depreciating asset under **G** or **H Other business income** item **5**, include that amount as an income subtraction at **A Income reconciliation adjustments** item **5**, see Balancing adjustment amounts.

Section 40-880 deduction

This section provides a five-year write-off for certain business-related capital expenditure incurred by the trust in relation to a past, present or proposed business.

As part of the tax treatment for black hole expenditure, rules apply to business-related capital expenditure incurred after 30 June 2005. Section 40-880 deductions are no longer limited to seven specific types of business-related capital expenditure. The trust may now be able to claim a deduction for capital expenditure it incurs after 30 June 2005:

- in relation to its business
- in relation to a business that it used to carry on, such as capital expenses incurred in order to cease the business
- in relation to a business it proposes to carry on, such as the costs of feasibility studies, market research or setting up the business entity
- as a shareholder, beneficiary or partner to liquidate or deregister a company or to wind up a trust or partnership, provided that the company, trust or partnership carried on a business.

If the trust incurs the relevant capital expenditure in relation to its existing business, a former business or a proposed business, the expenditure is only deductible to the extent the business is, was, or is proposed to be carried on for a taxable purpose.

The trust cannot deduct expenditure in relation to an existing business that is carried on by another entity or a proposed business unless it is proposed to commence within a reasonable time. However, it can deduct expenditure it incurs in relation to a business that used to, or is proposed to be, carried on by another entity. Such expenditure is only deductible to the extent that the:

- business was, or is proposed to be, carried on for a taxable purpose, and
- the expenditure is in connection with
  - business was or is proposed to be carried on, and
  - derivation of assessable income from that business by the trust.

A section 40-880 deduction cannot be claimed for capital expenditure to the extent that it:

- can be deducted under another provision of the income tax laws
- forms part of the cost of a depreciating asset the trust holds, used to hold or will hold
- forms part of the cost of land
- relates to a lease or other legal or equitable right
- would be taken into account in working out an assessable profit or deductible loss
- could be taken into account in working out a capital gain or a capital loss from a CGT event
- would be specifically not deductible under the income tax laws if the expenditure was not capital expenditure
- is specifically not deductible under the income tax laws for a reason other than that the expenditure is capital expenditure
- is of a private or domestic nature
- is incurred in relation to gaining or producing exempt income or non-assessable non-exempt income
- is excluded from the cost or cost base of an asset because, under special rules in the UCA or capital gains tax regimes respectively, the cost or cost base of the asset was taken to be the market value
- is a return of or on capital (for example, distributions by trustees) or a return of a non-assessable amount (for example, repayments of loan principal).

The trust deducts 20% of the qualifying capital expenditure in the year it is incurred and in each of the following four years.

Show the section 40-880 deduction as an expense subtraction at **B Expense reconciliation adjustments** item **5**. Also show the amount at label **K**, item **48 section 40-880 deduction**.

If you have included any of the expenditure incurred for the income year as an expense at item 5 show this amount as an expense add back at **B Expense reconciliation adjustments** item **5**.

TOFA rules and UCA

The TOFA rules contain interaction provisions which may modify the cost and termination value of a depreciating asset acquired by a trust to which the TOFA rules apply. This will be the case where the consideration (or a substantial proportion of it) is deferred for greater than 12 months after delivery.

For more information, see Guide to the taxation of financial arrangements (TOFA) rules and the Guide to depreciating assets 2013.

Appendix 7 Personal services income (PSI)

PSI is income that is mainly a reward for an individual's personal efforts or skills. If PSI is received by an entity (a personal services entity) it is still the individual's PSI for income tax purposes.

The PSI rules do not affect PSI received by employees, except when the individual is an employee of a personal services entity. The rules also do not apply to PSI that is earned in the course of conducting a personal services business.

What is a personal services business?

You qualify as a personal services business if:
- you meet the results test
- less than 80% of the individual’s PSI in an income year comes from each client and you meet either the unrelated clients test, the employment test or the business premises test, or
- you obtain a determination from the Commissioner of Taxation confirming that you are a personal services business.

For more information on personal services income, see:
- Personal services income – basic information you need to know
- Personal services income – companies, partnerships and trusts
- Personal services income – avoiding common mistakes

What if I do not qualify as a personal services business and the PSI rules apply?

Generally, if the rules apply to you there are three main effects:

- The PSI, reduced by certain deductions to which the personal services entity is entitled, is treated as the income of the individual who does the personal services work and must be included in their income tax return.
- The personal services entity must either
  - pay the PSI promptly, as salary or wages, to the individual who does the personal services work, or
  - attribute the net PSI to the individual who does the personal services work and withhold and remit tax on that income.
- The deductions that may be claimed are limited.

If the personal services entity has made a net PSI loss:

- the individual is entitled to a deduction for the loss, and
- the total amount of the deductions to which the entity is entitled is reduced by the amount of the individual's deduction for the loss.

Deductions

The deductions that may be limited include:

- certain car expenses
- superannuation contributions
- entity maintenance deductions
- mortgage interest, rates and land tax
- payments to associates.

Certain car expenses

You may deduct:

- a car expense for each car used solely for business purposes
- a car expense or an amount of fringe benefits tax payable for a car fringe benefit where a car is used partly for private purposes.

However, there cannot be, at the same time, more than one car for which such deductions can arise in relation to gaining or producing the same individual's PSI. If there is more than one car used privately at the same time for the same individual, you must choose one car only for which to claim deductions. The choice remains in effect until you cease to hold that car.

Superannuation contributions

You may be able to claim a deduction for a portion of the contributions you make to a complying superannuation fund or retirement savings account (RSA) for the purpose of making provision for superannuation benefits for an individual whose PSI you derive.

However, if the individual:

- performs less than 20% of your principal work, and
- is an associate of another individual whose PSI you derive

then your deduction cannot exceed the amount you would have to contribute for the associate to ensure that you did not have an individual superannuation guarantee shortfall for that associate.

If the associate only performs non-principal work, you cannot claim any deduction relating to PSI for contributions you make to a complying superannuation fund or RSA for the associate.

Entity maintenance deductions

These are:
- fees or charges associated with an account with an authorised deposit-taking institution (but not including interest or interest-like amounts)
- tax-related expenses
- any expense incurred in relation to the preparation or lodgment of a document under Corporations Law, except if the payment is made to an associate, and
- certain statutory fees.

Entity maintenance deductions must first be offset against your other income. If the entity maintenance deductions exceed your other income, the excess of the entity maintenance deductions may reduce PSI attributable to the individuals.

If your income includes the PSI of more than one individual, apportion the excess entity maintenance deductions between the individuals using the following formula:

excess entity maintenance deductions x (individual's PSI/total PSI)

Mortgage interest, rates and land tax

You cannot deduct amounts that are incurred in gaining or producing an individual's PSI if such amounts represent rent, mortgage interest, rates and land tax for the residence of the individual or the residence of an associate of yours.

Payments to associates

You cannot deduct payments to associates or any amount you incur from an obligation you have to your associate to the extent the payment or obligation relates to the associate performing non-principal work.

Additional PAYG withholding obligations

When the PSI rules apply, you will have additional PAYG obligations for the amount attributed (treated as belonging) to each individual who performed the services that generated the PSI.

The additional PAYG withholding obligation ensures:
- an amount of withholding has been reported and paid to us for the attributed income (the income treated as belonging to the individual who generated the PSI)
- each individual who generated the PSI receives a PAYG withholding credit for their individual return.

Normal PAYG withholding applies to the PSI you received that is promptly paid out to the individual as salary or wages.

An individual receiving such salary or wages must complete item **1 Salary or wages** on their individual tax return.

If you have a net PSI loss for an income year, there are no additional PAYG withholding obligations as no income has been attributed.

Include adjustments for PSI at item **5 Reconciliation items**. See Treatment of attributed PSI on your trust tax return at item **30**.

Appendix 8: Trust loss and bad debt legislation – Schedule 2F to the ITAA 1936

Legislation contained in Schedule 2F to the ITAA 1936 affects the deductibility by trusts of prior year losses, debt deductions (bad debts and debt and equity swap amounts) and other current year amounts. For more information on the trust loss provisions, family trust elections or interposed entity elections, phone **13 28 66**.

All references to provisions in this appendix are to Schedule 2F to the ITAA 1936.

Types of trust for the purposes of the legislation

The legislation applies to two broad categories of trusts, referred to in the measures as:

- fixed trusts, where persons have fixed entitlements to all of the income and capital of the trust, see section 272-65, and
- non-fixed trusts (including discretionary trusts) defined in section 272-70.

Excepted trusts (defined in section 272-100) include:

- family trusts (as defined in Subdivision 272-D, see Family trust election status and Interposed entity election status)
- complying superannuation funds, complying approved deposit funds, pooled superannuation trusts
- deceased estates administered within five years
- fixed unit trusts if all of the direct or indirect fixed entitlements to income and capital of the trust are held by tax exempt entities, and
- first home saver account trusts.

Ownership and control tests

If a trust fails a test relating to ownership or control that applies to it under the legislation, the trust may:

- be prevented from deducting its tax losses of earlier income years
- have to work out its net income and tax loss in a special way
- be prevented from deducting certain amounts in respect of debts, that is, debt deductions, incurred in the income year or earlier income years.

Fixed trusts that are not excepted trusts are subject to the 50% stake test, which tests for continuity of majority underlying beneficial ownership of the trust during the relevant periods, see section 269-55. Fixed trusts that are listed widely held trusts (as defined in section 272-115) that fail the 50% stake test, but pass the same business test (see section 269-100) may avoid the above consequences. See Division 266 for the ownership tests that apply to fixed trusts.

Non-fixed trusts that are not excepted trusts are subject to:

- the 50% stake test, if applicable
- the control test, see section 269-95,and
- the pattern of distributions test, see section 269-60, if applicable.

See Division 267 for the ownership and control tests that apply to non-fixed trusts.

These ownership and control tests do not apply to excepted trusts, including family trusts, as defined.

Tracing concessions where fixed entitlements are held by certain kinds of companies, funds or trusts

For the purpose of applying the 50% stake test or the pattern of distribution test to a trust under the legislation, there are concessional tracing rules for fixed entitlements that are held directly or indirectly by:
- a government body
- a special company, (as defined in section 272-140)
- certain kinds of funds
- a family trust, (as defined in Subdivision 272-D)
- a listed public company, or
- a widely held unit trust.

See sections 272-25 and 272-30.

Income injection test

Under the legislation, a trust, including a family trust, involved in a scheme to take advantage of deductions to the trust may be prevented from making full use of the deductions under the income injection test contained in Division 270.

In general terms, the income injection test applies if under a scheme an 'outsider' to the trust (see section 270-25) provides a benefit to the trust, a benefit is provided to the outsider by the trust, and either of those benefits was provided, or assessable income was derived by the trust, wholly or partly (but not merely incidentally) because a deduction was allowable to the trust.

For the definition of a 'benefit', see section 270-20.

Appendix 9: Instructions to trustees of deceased estates

These instructions will help you complete the trust tax return for a deceased estate, if you are:
- the legal personal representative
- a trustee or executor
- an administrator of a deceased estate
- collecting information on behalf of an administrator.

Deceased estates

A 'deceased estate' is a trust. Unlike a natural person or a company, a trust is not a legal entity in its own right, but a relationship between a trustee and beneficiaries. The trustee administers the trust property in the best interests of the beneficiaries.

A trust is made up of:
- assets of a deceased person, the trust property
- beneficiaries, who, in a typical deceased estate, are those normally named in the will of a deceased person, although in some circumstances the courts may vary the terms of a will. Beneficiaries may include the surviving partner, children and grandchildren, and charitable or scientific institutions and religious bodies
- the trustee, who is usually appointed by the deceased person's will. For income tax purposes, the legal personal representative of a deceased estate is the trustee of the deceased estate.

Any tax liabilities of the deceased person are paid out of the deceased estate.

If the administration of the estate takes some time, assets may earn income and the estate may incur expenses. A tax return for the trust, as well as an individual return from the beginning of the income year to the date of death, may be required.

The legal personal representative of the estate is responsible for the payment of any tax payable by the trust.

What you need to do as a legal personal representative

As a legal personal representative, you need to:
- notify the ATO of the death, so that we can stop the issue of any notices that may cause distress to partners or other relatives. If you know the TFN for the deceased person, quote this in any phone calls or letters to us
- lodge a 'date of death' return.

Date of death returns may not need to be lodged for people who obviously have no taxation liability and may not have lodged tax returns for many years, such as taxpayers who were receiving only:
- the age pension
- the disability support pension, or
- a Department of Veterans' Affairs (DVA) pension.

In these cases, the legal personal representative of the deceased person simply needs to write and tell us the facts.

A date of death return covers the period from the beginning of the income year to the date of the taxpayer's death. Show the name of the taxpayer as **THE LEGAL REPRESENTATIVE OF JOHN CITIZEN DECEASED**, or similar. The return must include:
- all assessable income and deductible losses or outgoings of the deceased person from the start of the income year up to the date of death
- a full and true statement of the assets and liabilities of the deceased person at the date of death. For salary and wage earners this is only necessary if the ATO asks for it.

The return may also include:
- tax agent's fees and similar expenses incurred by the taxpayer's legal personal representative: these are deductible expenses
- medical expenses incurred by the deceased taxpayer and paid by the legal personal representative: a medical expenses tax offset may be allowable for this expenditure.

The legal personal representative can sign the return.

The period from the date of death to the end of the income year is covered by the first return of the deceased estate. Trustees of a deceased estate must use the Trust tax return 2013. The trustee needs to apply for a trust TFN by completing an ABN registration for companies, partnerships, trust and other organisations (NAT 2939) if an ABN is required or a Tax file number application or enquiry for a deceased estate (NAT 3236) if an ABN is not required. Show the name of the trust as **THE ESTATE OF JOHN CITIZEN DECEASED** or similar.

Amounts of assessable income received after death

If assessable income, including interest, rent, and business or employment income, is received after a taxpayer's death, it is part of the deceased estate. The trustee is then liable for any tax due on those amounts.

Recreation leave and long service leave

Amounts of recreation leave and long service leave, ordinarily assessable under sections 83-10 and 83-80 of the ITAA 1997, are exempt from tax when paid directly to the trustee of a deceased estate.

Dividends

Dividends are usually assessable when they are credited to a taxpayer.

Payments from friendly society funeral policies

A funeral policy is a type of life insurance policy issued by a friendly society for the sole purpose of providing benefits to pay for the funeral of an insured person. In some instances, the policy holder pays a funeral director upfront for a set funeral service and this payment is managed by a friendly society in a funeral policy.

Benefits received by the deceased estate under a friendly society funeral policy that was taken out before 1 January 2003 are exempt from tax.

If the deceased person was insured under a friendly society funeral policy taken out after 31 December 2002, the investment income from the funeral policy is included in the assessable income of the estate, if the estate's trustee:

- instructs the friendly society to pay a funeral director or other party for the insured person's funeral expenses, or
- is reimbursed for the funeral expenses.

In these circumstances, the statement of distribution issued by the friendly society will advise the amount of income to be included on the trust tax return.

If the policy proceeds are paid to a funeral director, either under a policy assignment or as the nominated beneficiary, they are included in the funeral director's assessable income and no amount needs to be included in the estate's assessable income.

Employment termination payments (ETPs)

An ETP paid to a trustee is taxed in the hands of the trustee in the same way that it would be taxed if paid directly to a beneficiary – that is, the portions of the payment are subject to tax to the extent the beneficiary is a dependant (see Definition of terms) or a non-dependant of the deceased.

Superannuation lump sums

A superannuation death benefit paid to a trustee is taxed in the hands of the trustee in the same way that it would be taxed if paid directly to a beneficiary, that is, the portions of the payment are subject to tax to the extent the beneficiary is a dependant or a non-dependant of the deceased. There is no tax payable to the extent that the payment is made to dependants or eligible non-dependants of the deceased.

Eligible non-dependants of Australian Defence Force and Australian police force (including Australian Protective Services) members who have died in the line of duty are treated as dependants for tax purposes.

Capital gains tax

From the 2006 income year, a trustee of a testamentary trust could choose to be assessed on part or all of an amount of a net capital gain that is included in the net income of a trust.

For more information on deceased estates and capital gains tax, see the Guide to capital gains tax 2013.

Legislative changes made in 2011 expand this choice to eligible trustees of all resident trust estates in respect of capital gains that meet certain criteria.

For more information, see Improving the taxation of trust income.

Paying tax on the income of deceased estates

A trustee cannot distribute the income or assets of a deceased estate until the debts of the deceased person, including any outstanding tax liabilities, are determined. For taxation purposes, this requires a notice of assessment. Once a notice of assessment is issued, the trustee can deal with the assets of the deceased person in accordance with the will.

A trustee can distribute some of the income or assets to beneficiaries if the trustee is certain that the remainder of the estate is sufficient to cover any outstanding liabilities. Beneficiaries who receive payments of income are considered to be presently entitled to them and they declare them and pay tax on those amounts in their own tax returns.

Any undistributed trust income, or income accumulated in the deceased estate and not paid to or applied to the credit of beneficiaries, is treated as income to which 'no beneficiary is presently entitled', for example, where the administration of an estate is not finalised.

For more information on the term 'presently entitled' and the taxation of trusts, see item 54 Statement of distribution.

Tax rates applicable to a resident individual (that is, normal tax rates) are applied to the net income to which no beneficiary is presently entitled if the person died less than three years before the end of the income year.

TFN withholding for closely held trusts

Trusts of deceased estates are excluded from the TFN withholding rules up until the end of the year of income in which the fifth anniversary of the individual's death occurred – after this, the trustee will need to consider whether they will be subject to the TFN withholding rules. To find out more about these rules, see TFN withholding for closely held trusts.

Completing a simple deceased estate return

Before completing the return, you will need an ABN or trust TFN.

If the activities of the executor, in realising the deceased estate, amount to carrying on an enterprise and an ABN is required, Executors can apply online at abr.gov.au. Or you can complete an ABN registration companies, partnerships, trusts and other organisations (NAT 2939) to obtain an ABN. For more information on carrying on an enterprise, see Miscellaneous Taxation Ruling MT 2006/1 *The New Tax System: the meaning of entity carrying on an enterprise for the purposes of entitlement to an Australian Business Number*.

If an ABN is not required, Executors can also apply for a trust TFN only online at abr.gov.au, or by completing a Tax file number application or enquiry for a deceased estate

Page 1

Complete all appropriate items.

Show the name of the trust as **THE ESTATE OF JOHN CITIZEN DECEASED** or similar. Print code **D** in the CODE box at **Type of trust** and complete the date of death box.

Pages 3 to 5

Complete the appropriate items listed below.

Income

8 Partnerships and trusts

Show at **A** or **B** any amount of primary production or non-primary production partnership income.

Show at **Z** or **R** and **F** the trust's share of primary production or non-primary production income which has been included in the net income (for tax purposes) of other trusts after the date of death.

Show at **S** any deductions for the deceased estate’s own expenses in relation to distributions of primary production income.

Show at **T** and **G** any deductions for the deceased estate’s own expenses in relation to distributions of non-primary production income.

Show at **C** any share of credit for tax withheld where an ABN was not quoted.

Show at **D** any share of franking credit from franked distributions.

Show at **E** any share of credit for TFN amounts withheld from interest, dividends and unit trust distributions.

Show at **O** any credit for TFN amounts withheld from payments from closely held trusts.

9 Rent

Show at **F** the gross amount of rent including any booking or letting fees.

Show at **G** the total interest expenses incurred in earning rental income.

Show at **X** the total capital works deduction for rental buildings.

Show at **H** the expenses that relate to this rental income.

Show at **Net rent** the net amount of any rent.

11 Gross interest

Show at **J** the interest from banks and credit unions, building societies, debentures, notes and deposits, discounted or deferred interest securities, government securities, Australian Government loans issued before 1 November 1968, and interest paid by the ATO.

The total (that is, the gross amount of interest received or credited) must be included in assessable income.

Copy details from all statements to worksheet 3. Keep the worksheet with the trust's tax records.

Discounted, deferred interest or capital-indexed securities

Show at J the appropriate amount of discount, interest or other gain which accrued this income year on a discounted, deferred interest or capital-indexed security:
- that was issued after 16 December 1984
- that had a maturity date of over 12 months from the issue date, and
- where the sum of all payments under the security (except periodic interest, for example, a coupon rate) exceeds its issue price by greater than 1.5%.

TFN amounts withheld from gross interest

Show at **I** the TFN amounts withheld from gross interest.

We may check the amount shown at item **11** with our own records to determine accuracy; see Information matching.

12 Dividends

Show at **K** the total amount of unfranked dividends, and the unfranked amount of partially franked dividends, received.

Show at **L** the franked amount of franked dividends received.

Show at **M** the amount of franking credits received directly from a paying company.

Show at **N** the total of TFN amounts withheld from dividends received.

We may check the amount shown at item **12** with our own records to determine accuracy; see Information matching.

13 Superannuation lump sums and employment termination payments

Show at **V** the taxed element of the death benefit superannuation lump sum where the beneficiary is a non-dependant.

Show at **W** the untaxed element of the death benefit superannuation lump sum where the beneficiary is a non-dependant.

Show at **X** the taxable component of the death benefit employment termination payment where the beneficiary is a dependant.

Show at **Y** the taxable component of the death benefit employment termination payment where the beneficiary is a non-dependant.

14 Other Australian income

Show at **O** any other income received by the estate after the date of death. Include at **O** salary and wages received after the date of death and the assessable amount of benefits under friendly society funeral policies taken out after 31 December 2002.

15 Total of items 5 to 14

Show the total income amounts.

Deductions

16 Deductions relating to: Australian investment income

Show at **P** the expenses incurred in earning Australian investment income other than franked distributions.

16 Deductions relating to: Franked distributions

Show at **R** the expenses incurred in earning franked distributions.

18 Other deductions

Show at **Q** any other tax-related expenses – do not include capital expenses incurred in administering the estate.

19 Total of items 16 to 18

Show the total deduction amounts.

20 Net Australian income or loss

Show at **$** the total amount shown at item **15 Total of items 5 to 14** less the total amount shown at item **19 Total of items 16 to 18**.

21 Capital gains

Show at **A** the net capital gain made by the trustee of the estate. The trustee may need to complete a CGT schedule if the trust has:
- total current year capital gains greater than $10,000
- total current year capital losses greater than $10,000.

For more information, see the Guide to capital gains tax 2013.

Capital losses incurred by the deceased before their death cannot be carried forward to their estate.

Show the total amount of net income or loss, plus any net capital gain amount.

The amount at item **26** equals the amount at item **24** if no amount is disclosed at item **25 Tax losses deducted**.

Complete Key financial information items

54 Statement of distribution

If the deceased estate has distributed amounts to trustee beneficiaries, the trustee will need to consider whether they are required to lodge a TB statement, see appendix 12 for more information on these reporting requirements.

If there has been no distribution of income from the deceased estate, the net income amount shown at item **26 Total net income or loss** is separated into primary production and non-primary production income. Print the totals at the end of item **54**, on page 15 of the tax return, under **Income to which no beneficiary is presently entitled**, at **A** and **B** for primary and non-primary production.

Print an assessment calculation code at **V Assessment calculation code**. For a list of trust assessment calculation codes, see appendix 13.

For lodgment addresses, see Lodgment.

For payment options, see Payment.

Appendix 10: Instructions to trustees where a beneficiary is under 18 years of age – other than trustees of deceased estates

This appendix outlines the application of the special taxation provisions relating to trust income to which beneficiaries under 18 years of age are, or are deemed to be, presently entitled. It will help you complete **O** item **14** and **Excepted net income** at item **14**.

Basis of the minor beneficiaries system

Special taxation provisions apply to certain trust income, including capital gains, derived during the income year to which specified beneficiaries under 18 years of age at the end of the income year (minors) are presently entitled.

This includes income of a trust estate to which a beneficiary is deemed to be presently entitled.

Unless the minor beneficiary is an excepted person or the distribution is excepted income, income of the trust estate to which a minor is presently entitled generally is taxed at the highest marginal tax rate, plus the Medicare levy. The tax rates that apply are in appendix 11.

In some cases, it is unreasonable for the full amount of the additional tax under the system to be payable on income, for example, in cases of serious hardship. For more information on details of special measures under which release from the obligation to pay some or all of the additional tax may be granted, see appendix 11.

If the trustee considers that the system and the consequential higher tax rates are not applicable for any reason to the whole or part of the trust income to which any minor beneficiary is presently entitled, keep the information set out in the questions with the trust’s tax records. Some circumstances in which a trustee can ignore these details are set out in **Completing the questions**. If the trustee fails to consider and keep the information in the questions, where this is necessary, together with any additional information, the income to the trustee could be assessed at the highest marginal tax rate provided under the system.

Effect of the minor beneficiaries system on trust income

The system has no effect on ascertaining the trust's net income.

The system can affect an assessment issued to the trustee where a minor beneficiary is presently entitled to share of the income of the trust estate, but only if the minor is a 'prescribed person' and to the extent that income of the trust estate to which that beneficiary is presently entitled is eligible income.

Who the minor beneficiaries system applies to

Prescribed person

The system applies to a prescribed person, who is a beneficiary under 18 years of age at the end of the income year and is not an excepted person.

Excepted person

A person is an 'excepted person' if, on the last day of the income year, any of the following circumstances applied to them:

- they were engaged in a full-time occupation (see below)
- they were entitled to a disability support pension or rehabilitation allowance, or someone was entitled to a carer allowance to care for them
- they had a medical certificate (or a previous medical certificate for a disability they had that existed on the last day of the income year) that certified that:
  - they were disabled and were likely to suffer from that disability permanently or for an extended period
  - they had a physical or mental disability that prevents them from working in the next two years and either the disability prevents them from undertaking educational, vocational or on-the-job training in the next two years or they are able to undertake educational, vocational or on-the-job training, but it is unlikely the training will enable them to work within the next two years, or
  - they were permanently blind
- they were a person who received little or no financial support from relatives and were:
  - entitled to a double orphan's pension, or
  - unable to engage in a full-time occupation because of a permanent mental or physical disability
- they are the principal beneficiary of a special disability trust.

A person is regarded as dependent for support on a relative if they live with the relative, unless it can be established that they were not dependent on that relative for financial support.

Meaning of full-time occupation

Occupation includes an office, employment, trade, business, profession, vocation or calling, but does not include a course of education at a school, college, university or similar institution. A beneficiary is accepted as being engaged in a full-time occupation on the last day of the income year if they were engaged in full-time employment or business:

- on the last day of the income year, or

- for three months or more during the income year (ignoring any period of full-time employment or business that was followed by full-time study) and on the last day of the income year:
  - they had the intention of continuing in that, or engaging in another, full-time occupation during the whole or most of the following income year, and
  - they had no intention of returning to full-time education at any time during the following income year.

A period during which a person receives youth allowance does not constitute a period of engagement in full-time occupation.

Income the minor beneficiaries system applies to

If the minor beneficiary is a prescribed person, part of the income of the trust estate might be:
- subject to the system, this is referred to as 'eligible income'
- excluded, this part is referred to as 'excepted income'.

Eligible income

Income of the trust estate to which a minor beneficiary, who is a prescribed person, is presently entitled, is eligible income except to the extent that the income can be classified as excepted income for the beneficiary. Eligible income is subject to higher tax rates, plus the Medicare levy in the hands of both the trustee and the beneficiary. The beneficiary will receive a credit for the tax paid by the trustee.

Excepted income

An amount included in the assessable income of a trust is excepted income only to the extent that the assessable trust income would, if derived by the minor beneficiary, be excepted income.

The amount of excepted income is based on the facts of each individual case.

Income derived by the trust is excepted income to the extent that it is:
- employment income
- income from the estate of a deceased person, either as a result of a will or an intestacy, or a court order modifying a will or the distribution of an intestate estate
- income derived from the investment of any property transferred to the trustee for the benefit of the beneficiary:
  - to satisfy a claim for damages to the beneficiary for loss of parental support, for personal injury, for disease or for a physical or mental condition, or as a settlement made otherwise than by a court order, to the extent that the income is considered to be at a fair and reasonable level
  - as workers compensation or compensation for criminal injury
  - directly as a result of another person's death and being, under the terms of a life assurance policy, out of a superannuation, provident, benefit or retirement fund, or from an employer of the deceased person
  - out of a public fund established and maintained exclusively for the relief of persons in necessitous circumstances
  - under a decree or order of dissolution or annulment of marriage having effect in Australia by the Family Law Act 1975, or recognised as valid in Australia, or an order as the result of a family breakdown, as defined in section 102AGA of the ITAA 1936

- as a verifiable prize beneficially owned by the minor in a legally authorised and conducted lottery
- as an entitlement from a deceased estate
- by transfer from another person, out of property that devolved upon that other person from a deceased estate, and that person transferred it to the trustee within three years of the date of death of the deceased, subject to limitations based on what would have passed to the beneficiary under laws of intestacy
- income derived from the investment of any property representing accumulations of income not subject to the system, being from sources indicated above (including where those accumulations were made from income of a prior year) or being savings from exempt income which, if it had not been exempt, would similarly have been excepted income.

Income from an investment made from sources as described above is excepted income and is taxed at normal individual rates. If such an investment is sold or otherwise realised, and the proceeds invested in a different form that represents that earlier property, income from the new investment keeps the character of excepted income.

Exceptions are not available if an arrangement is entered into so that the income is not subject to the system.

In addition, if an arrangement is entered into between persons who are not dealing with each other at arm's length, and this results in an amount of excepted income greater than the amount which would have resulted had the parties been dealing at arm's length, only an amount equal to that arm's length amount is excepted from the higher rates of tax.

Business income derived by a trust cannot be excepted income as such, but it may constitute excepted income on some other basis, for example, business income of a deceased estate.

If any part of the trust income is considered to be excepted income, see **Completing the questions** and consider **Part B** of the questions at table 10.1 following. Irrespective of these questions, you must include the income on the trust tax return so that the tax return discloses the total trust income from all sources in the normal way.

Each beneficiary's excepted income component must bear the same percentage to the total trust income as that beneficiary's share of net income bears to the total trust net income. If the trustee considers, for any reason, that there are circumstances that warrant a different determination, provide a statement on a separate sheet of paper setting out the facts and the reasons why. Attach the statement to the tax return and print **X** in the **Yes** box at **Have you attached any 'other attachments'?** at the top of page 1 of the tax return.

Employment income

Normally, employment income is derived directly by a minor and is excepted income. However, occasionally, superannuation pensions and similar payments, which are employment income, are paid to a trustee on behalf of a minor. Payments of this kind are excepted income in the hands of the trustee.

Allocation of deductions between eligible and excepted income

In determining the trust income on which a minor has to pay tax, deductions are applied against eligible assessable income of the trust as follows:

- any deductions that relate exclusively to that eligible assessable income, these are indicated on the trust tax return
- so much of any other deductions (other than apportionable deductions) as may appropriately be related to that eligible assessable income
- a proportionate share of any apportionable deductions, most commonly gifts. The formula for calculating this amount is:

$$\frac{E \times A}{N}$$

where:

E is net eligible income, before apportionable deductions

A is apportionable deductions

N is net income, before apportionable deductions.

Changes to low income tax offset for minors

From 1 July 2011, children under 18 will no longer be able to use the low income tax offset to reduce the tax payable on their eligible income (unearned income), such as trust distributions, dividends, interest and rent.

The low income tax offset can still be used to reduce the tax payable on excepted income, such as employment income or income from a deceased person's estate.

Minors who are excepted persons will not be affected by the changes.

Completing the questions

Read all this **appendix** to find out whether you need to answer the questions. Do not include the questions with the trust tax return, keep them with the trust's tax records.

The questions are divided into:

- **Part A** relating to the eligibility of the minor beneficiary to be treated as an excepted person, and
- **Part B** relating to the nature of the trust income.

Some of the questions need to be answered if the trustee claims that all or any part of the share of the trust income to which a beneficiary is presently entitled is excepted income, that is, income not subject to tax at the higher rate applicable to a minor.

The questions need **not** be answered by a trustee if:

- no beneficiary is under 18 years of age on the last day of the income year
- the trust is the estate of a deceased person, or
- all of the following apply:
  - the share of trust income to which each resident beneficiary under 18 years of age is presently entitled does not exceed $416
  - there is no non-resident beneficiary under 18 years of age on the last day of the income year

    - no beneficiary is also a beneficiary in another estate that derives income
    - the trustee is able to certify for each beneficiary that the beneficiary does not need to furnish an individual tax return, or if the beneficiary is required to furnish an individual tax return, the only income on that tax return, other than the share of trust income, is from salary, wages or payment for services rendered.

If the trust does not fall within the exceptions listed above, the following applies:

- Read and answer **Part A** for
    - any resident beneficiary who is an excepted person unless the trust income to which the beneficiary is presently entitled is less than $416
    - any non-resident beneficiary who is an excepted person.
- Do not answer **Part B** if all the beneficiaries of the trust are excepted persons and you answered **Part A**. Answer **Part B** where
    - any resident minor beneficiary (being a prescribed person) is presently entitled to trust income in excess of $416
    - the share of net trust income of any resident minor beneficiary, being a prescribed person, is $416 or less and the beneficiary is also the beneficiary in another trust, or
    - any non-resident minor beneficiary, being a prescribed person, is presently entitled to $1 or more of trust income.

The minor beneficiary may be entitled to a release from some or all of the tax charged at the higher rate if they face serious hardship, see appendix 11.

If one or more minor beneficiaries of the trust are excepted persons or a distribution includes excepted income, attach a statement to the tax return with the information requested at **Excepted net income** under **Other Australian income**. Show the amount of excepted income at both **O** item **14** and **Excepted net income** item **14**.

Table 10.1

Part A	Read and answer these questions if it is claimed that the beneficiary was an excepted person on the last day of the income year (30 June). If the answer to any question in **Part A** is yes, there is no need to answer any more questions in **Part A** or **Part B**.	Yes or no
Is it claimed that the beneficiary was an excepted person on any of the following grounds?		
• The beneficiary was in a full-time job on 30 June, or had been in a full-time occupation for at least three months in the period leading up to 30 June. (If the beneficiary goes back to full-time studies before 1 July 2013, it cannot be claimed that the beneficiary is an excepted person by being in a full-time job.)		
• The beneficiary was entitled to a disability support pension or rehabilitation allowance, or someone for the beneficiary was entitled to a carer allowance on 30 June.		
• The beneficiary was disabled and was likely to suffer from that disability permanently or for an extended period, or permanently blind. A medical certificate will be needed for the beneficiary to qualify as an excepted person on this basis, but do not attach it to the trust tax return.		
• The beneficiary, or someone for the beneficiary, was entitled to a double orphan's pension on or for a period of time that included 30 June and the beneficiary did not rely on support from a relative in that time.		
• The beneficiary was unlikely to have a full-time job owing to a permanent mental or physical disability and the beneficiary did not rely on support from a		

relative in that time.	
• The beneficiary is the principal beneficiary of a special disability trust.	

Part B	Read these questions if it is claimed that all or part of the trust income during the income year was excepted unless all beneficiaries are excepted persons.	Yes or no	Amount o income
Is it claimed that any part of the trust income is excepted income because it is:			
• in the nature of employment income (not including employment income paid to beneficiaries for services rendered)			
• income derived from any property transferred to the trustee for the benefit of the beneficiary in any of the special circumstances in Excepted income			
• income derived from the investment of property representing accumulations of income not subject to the system? For more information, see Excepted income.			
Total net excepted income		**$**	
If any excepted income includes a capital gain subject to CGT, show the amount of the capital gain here.		**$**	

Net excepted income here means the sum of the gross amounts of excepted income of all prescribed beneficiaries, less deductions applicable to those amounts.

Unless adjustments are made, the assessable eligible income of the prescribed beneficiaries is the difference between the total net excepted income of the trust, as calculated above, and the amount of the net income of the trust, as shown at item **26 Total net income or loss**, less any share of the income in respect of which non-prescribed person beneficiaries are presently entitled and any income to which no beneficiary is presently entitled.

Appendix 11: Rates of tax payable by trustees on behalf of beneficiaries under 18 years old

If a beneficiary is presently entitled to a share of the trust income and is under 18 years of age, the trustee is assessed and is liable to pay tax on that income as if it were the income of an individual. A beneficiary deriving income from other sources in addition to the trust income is assessed on the total income in their personal tax return. A credit is allowed in the individual's return for the amount of tax paid or payable by the trustee on the trust income.

Beneficiaries who are under 18 years old are excluded from the TFN withholding rules for closely held trusts. You do not have to withhold amounts from payments to beneficiaries under 18 years old who have not provided a TFN.

For more information about the TFN withholding rules for closely held trusts, see TFN withholding for closely held trusts.

If a beneficiary is under 18 years old at 30 June in the income year (a minor beneficiary), special taxation provisions apply to their income (eligible income) unless the beneficiary is an excepted person or the income is excepted income.

To work out whether a minor beneficiary is an excepted person or whether their trust income is excepted income or eligible income, see appendix 10.

If a minor beneficiary is an excepted person, the trustee pays tax on the beneficiary's share of net trust income at the normal individual rates if the beneficiary is a resident or at non-resident rates if they are a non-resident.

If a minor beneficiary is a prescribed person, the trustee pays tax on the beneficiary's trust income as follows:

- For a resident beneficiary, the trustee pays tax on the excepted trust income at the normal individual rates and pays tax on the beneficiary's eligible trust income at higher rates applicable to a resident.
- For a non-resident beneficiary, the trustee pays tax on the excepted trust income at the non-resident rates and pays tax on the beneficiary's eligible trust income at higher rates applicable to a non-resident.

The following notes assume that a trustee is entitled, on behalf of a resident beneficiary, to the full tax-free threshold of $18,200. Where a beneficiary becomes or ceases to be an Australian resident, a reduced tax-free threshold may apply.

Rates for excepted income

If a minor resident beneficiary's share of the trust net income consists wholly of excepted income, or includes an amount of eligible income not exceeding $416 and the beneficiary is not entitled to a share of the net income of any other trust, the trustee pays tax at normal individual rates. If a non-resident minor beneficiary's share of the trust net income consists wholly of excepted income, the trustee pays tax at the rates normally applying to non-residents.

Rates for eligible taxable income

Table 11.1 sets out the higher tax rates that apply to the eligible taxable income of a minor who was a resident for the full income year.

Table 11.1

Eligible taxable income	Tax rate if beneficiary is a resident
$0–$416	Nil
$417–$1,307	Nil + 66 cents for every dollar over $416*
$1,308 and above	45 cents in the dollar of the entire amount*
* The first $416 of eligible income is taxed at the normal individual rates. If the beneficiary has no other income, no tax is payable on the first $416.	

Table 11.2 sets out the higher tax rates that apply to the eligible income of a minor who was a **non-resident** for the full income year.

Table 11.2

Eligible income	Tax rate if beneficiary is a non-resident
$0–$416	32.5 cents in each dollar up to $416
$417–$663	$135.20 + 66 cents for every dollar over $416
$664 and above	45 cents in the dollar of the entire amount

If a beneficiary receives distributions of eligible income from more than one trust, the sum of the eligible income from those distributions is taken into account in working out the tax rate to apply.

If a minor beneficiary's share of trust income includes eligible taxable income subject to higher tax rates as well as excepted income, the tax on the excepted income (and up to $416 of the eligible income if the beneficiary is a resident) is first calculated at normal individual rates as if that income were the taxable income. In this way beneficiaries who are resident for the full income year apply the zero rate of tax on the first $18,200 and the 19% rate from $18,201 to $37,000 on the taxable income which is excepted income.

Eligible taxable income is then taxed at the higher rates set out in the relevant table above.

The trustee pays tax in respect of the beneficiary on excepted income at normal individual rates, plus the tax on the eligible income at the higher rate, less allowable tax offsets and other credits.

Note: From 1 July 2011, the low income tax offset no longer reduces tax payable on eligible income of minors. The low income tax offset is still available to be applied against excepted income.

In a limited number of cases, where eligible income of a resident is within a range with a tax rate less than 45 cents in the dollar as set out in tables 11.1 and 11.2, tax calculated on the beneficiary's share of net trust income at normal individual rates would exceed the tax calculated separately on the excepted income and eligible income components. In such cases, the trustee pays tax on the beneficiary's net trust income at normal individual rates. If the beneficiary is a non-resident, similar calculations are made using the rates that normally apply to non-residents.

Relieving provisions

Under Part 4-50 of Schedule 1 to TAA 1953, release from an individual's obligation to pay certain tax liabilities may be granted where the Commissioner is satisfied that payment of those liabilities would cause serious hardship. The release provisions also relate to the minor beneficiary's obligation to pay additional tax, pursuant to these provisions.

Beneficiaries who are owners of farm management deposits (FMDs)

If a beneficiary is under a legal disability and is the owner of an FMD made during the year of income, the trustee is not taxed on the share of net income to which the beneficiary is presently entitled. The beneficiary is treated as if no legal disability exists and will be assessed on their individual return, in respect of their share of net income of the trust estate and their claim for the FMD deduction.

Appendix 12: Closely held trust reporting

If you are the trustee of a closely held trust (that is not an excluded trust) you may need to provide annual reports to the Commissioner under the trustee beneficiary reporting rules (the TB rules) and/or the TFN withholding rules.

You can provide both of these reports by completing in full the statement of distribution at item **54** in the trust tax return.

For more information, see How the rules for closely held trusts apply.

What is a closely held trust?

A **closely held trust** is:
- a trust where 20 or fewer individuals have between them, directly or indirectly, and for their own benefit, fixed entitlements to 75% or more of the income or capital of the trust, or
- a discretionary trust

except where the trust is an **excluded trust**.

See section 102UC(1) of the ITAA 1936.

The types of trusts that qualify as excluded trusts will vary depending on which of the reporting rules for closely held trusts apply.

What is a discretionary trust?

A **discretionary trust** is a trust that is not a fixed trust within the meaning of section 272-65 of Schedule 2F to the ITAA 1936. See also section 102UC(4) of the ITAA 1936.

TFN withholding rules for closely held trusts

If you are the trustee of a resident closely held trust (that is, not an excluded trust) you will need to complete an *Annual trustee payment report* under the TFN withholding rules.

What is an excluded trust for the TFN withholding rules?

An excluded trust is:
- a complying superannuation fund, a complying approved deposit fund, or a pooled superannuation trust
- a trust of a deceased estate (but only until the end of the income year in which the fifth anniversary of the individual's death occurred)
- a fixed trust that is a unit trust where exempt entities have fixed entitlements (directly or indirectly)to all of the income and capital of the trust.
- a unit trust whose units are listed on the Australian Stock Exchange (ASX).

See subsections 102UC(1) and (4) of the ITAA 1936 and section 272-100 of Schedule 2F of the ITAA 1936.

The Regulations also exclude the following types of trusts from these rules:
- a trust that is a discretionary mutual fund

- an employee share trust
- a law practice trust.

What is an excluded beneficiary for the TFN withholding rules?

The TFN withholding rules apply to most beneficiaries, but there are some exclusions from the rules.

The TFN withholding rules do not apply to beneficiaries:
- that are non-residents for tax purposes
- that are exempt entities as defined in the tax laws, such as tax concession charities, deductible gift recipients and other entities that self-assess their status as income tax-exempt
- under a legal disability, for example, minors
- who are in the capacity of a trustee of another trust estate, and the trustee of the first trust is subject to the trustee beneficiary reporting rules.

For more information, see TFN withholding for closely held trusts.

Annual trustee payment report

Unless you are the trustee of an excluded trust, you will need to complete an *Annual trustee payment report* under the TFN withholding rules.

What is an *Annual trustee payment report*?

An *Annual trustee payment report* is a report of all payments made to a beneficiary during an income year from the trust's income, whether or not withholding has occurred.

A payment is a:
- distribution during the year from the ordinary or statutory income of the trust, and
- beneficiary's share of the net income of a trust where they are presently entitled to a share of trust income.

How do I make an *Annual trustee payment report*?

You make an *Annual trustee payment report* by completing in full the information on the statement of distribution for each beneficiary, including the beneficiary identity details.

Annual trustee payment report information

- You will need to complete **S** where you have made one or more distributions during the income year (not as a result of present entitlement created at year end) that are wholly or partly from the ordinary or statutory income of the trust for the year, and the total of those distributions exceed the beneficiary's share of the net income of the trust.
- Only include the excess of the distributions made during the income year over the beneficiary's share of the net income of the trust at **S.**
- If the only amount distributed is as a result of a present entitlement created at year end, you do not show anything at **S.**
- You will need to complete **T** where you have withheld from any payments (including distribution) you have made to beneficiaries.

Example 12.1

The trustee of a closely held trust derives interest income of $12,000 and rental income of $10,000. The section 95 net income of the trust is $20,000, comprising the interest and rental income, less allowable deductions of $2,000. The allowable deductions comprise $1,000 of capital allowance deductions and $1,000 of rental property expenses.

Under the trust deed, the capital allowance deductions are chargeable against capital. As a result, the distributable income of the trust is $21,000.

The trust deed allows the trustee to distribute particular classes of income to specific beneficiaries. During the income year, $12,000, being the interest derived by the trust, is distributed to Beneficiary 1.

At the end of the income year, Beneficiary 2 and Beneficiary 3 are made presently entitled in equal shares to the income of the trust that has not previously been distributed.

- Beneficiary 1 quoted their TFN to the trustee. Beneficiary 1's share of net income is $11,428 – that is, $12,000/$21,000 x $20,000 = $11,428.
- Beneficiary 2 quoted their TFN to the trustee. Beneficiary 2's share of net income is $4,286 – that is, $4,500/$21,000 x $20,000 = $4,286.
- Beneficiary 3 did not quote their TFN to the trustee. Beneficiary 3's share of net income is $4,286 – that is, $4,500/$21,000 x $20,000 = $4,286.

To correctly complete an *Annual trustee payment report*, you need to provide the required identity details for each beneficiary in full and for:

- Beneficiary 1, include $11,428 at **B** in the distribution statement and include $572 at **S** (being the excess of the amount distributed during the income year $12,000 and the share of net income of $11,428).
- Beneficiary 2, include $4,286 at **B** in the distribution statement and do not include an amount at **S** (because the only amount paid or payable to Beneficiary B relates to a present entitlement created at year end).
- Beneficiary 3, include $4,286 at **B** in the distribution statement, do not include an amount at **S** (because the only amount paid or payable to Beneficiary B relates to a present entitlement created at year end), and complete **T** for the amount withheld $1,993 ($4,286 x 46.5%).

Example 12.2

Assume the same facts as in example 12.1, except that at the end of the income year, Beneficiary 1 and Beneficiary 3, and not Beneficiary 2 and Beneficiary 3, are made presently entitled in equal shares to the income of the trust that has not previously been distributed.

- Beneficiary 1 quoted their TFN to the trustee. Beneficiary 1's share of net income is $15,714, that is, (4,500 + 12,000) 16,500/21,000 x 20,000 = $15,714.
- Beneficiary 2 quoted their TFN to the trustee. Beneficiary 2's share of net income is $0.00.
- Beneficiary 3 did not quote their TFN to the trustee. Beneficiary 3's share of net income is $4,286, that is, 4,500/21,000 x 20,000 = $4,286.

To correctly complete an *Annual trustee payment report*, you need to provide the required identity details for each beneficiary in full and for:

- Beneficiary 1, include $15,714 at **B** in the distribution statement and do not include an amount at **S**. There is no disclosure required at **S** as the distribution ($12,000) does not exceed the share of net income ($15,714).
- Beneficiary 2, there is no disclosure requirements in the statement of distribution.

  - Beneficiary 3, include $4,286 at **B** in the distribution statement, do not include an amount at **S**, and complete **T** for the amount withheld $1,993 ($4,286 x 46.5%).

Annual TFN withholding report

Where you have been required to withhold amounts from beneficiaries, you must lodge a separate Annual TFN withholding report with us. Do not lodge an *Annual TFN withholding report* if you did not have to withhold from beneficiaries. If a report is required, you must lodge it within three months after the end of the income year unless you have been given more time to lodge. If you have a 30 June balancing date, the report will be due on 30 September.

Trustee beneficiary reporting rules

A trustee of a closely held trust (that is, not an excluded trust) is required to complete and lodge a TB statement for a year of income if a share of the net income of the trust is included in the assessable income of a trustee beneficiary under section 97 of the ITAA 1936, and the share comprises or includes an untaxed part.

A TB statement must also be lodged where a trustee beneficiary is presently entitled to a share of a tax-preferred amount of the closely held trust.

A trustee beneficiary is a beneficiary of the trust in the capacity of trustee of another trust.

What is an excluded trust for the TB rules?

An **excluded trust** is:

- a complying superannuation fund, a complying approved deposit fund, or a pooled superannuation trust
- a trust of a deceased estate, but only until the end of the income year in which the fifth anniversary of the individuals death occurs
- a fixed trust that is a unit trust where exempt entities (entities whose ordinary and statutory income are exempt from tax) have fixed entitlements (directly or indirectly) and for their own benefit, to all of the income and capital of the trust
- a unit trust whose units are listed on the ASX
- a family trust, or
- a trust that has made an interposed entity election under section 272-85 of Schedule 2F to the ITAA 1936 or is wholly owned by the family (see section 272-90(5) of Schedule 2F to the ITAA 1936).

See section 102UC(4) and section 272-100 of Schedule 2F to the ITAA 1936 for further information on closely held trusts and excepted trusts.

How do you make a TB statement?

You make a TB statement by completing the statement of distribution in full for each trustee beneficiary including the beneficiary details and the TB statement information.

What is a tax-preferred amount?

A **tax-preferred amount** is an amount of trust income of the trust that is not included in the assessable income of the trust in working out its net income; or an amount of trust capital.

What is an untaxed part of a share of net income?

An **untaxed part of a share of net income** is the trustee beneficiary's share of the net income of a closely held trust less any part that has been taxed under:

- subsection 98(4) of the ITAA 1936
- Subdivision 12-H in Schedule 1 to the TAA 1953
- Division 6D (trustee beneficiary non-disclosure tax) in respect of which the trustee of another trust estate is liable to pay the non-disclosure tax.

An untaxed part of a share of net income includes interest, dividends or royalties that have been subjected to a withholding tax if these amounts are included in the assessable income of a non resident trustee beneficiary.

Example 12.3

The trustee of Trust A (a closely held trust) has net income of $10,000. The trust's distributable income is also $10,000. The trust has three trustee beneficiaries:

- The trustee of Trust B is a resident and was presently entitled to a 60% share of the trust's distributable income. As a result, it is assessable on the same percentage share of Trust A's net income, that is, $6,000.
- The trustee of Trust C is a resident and received a distribution of $2,000 during the income year. The $2,000 represented an amount of trust capital that was not included in Trust A's assessable income and was not part of the trust's distributable income. As a result, the trustee of Trust C is presently entitled to a tax-preferred amount of $2,000.
- The trustee of Trust D is a non-resident and was presently entitled to 40% share of the trust's distributable income. Their share of trust A's net income is $4,000 (all attributable to Australian sources).

To make correct TB statements for the trustee beneficiaries, the trustee of Trust A would report:

- the name and TFN of the trustee of Trust B, '0' at **P** and '6,000' at **Q**
- the name and TFN of the trustee of Trust C, '2,000' at **P** and '0' at **Q**
- no TB statement is required for Trust D. The trustee of Trust A is liable to pay tax on Trust D's share of the net income under subsection 98(4) of the ITAA 1936. That amount does not then form part of the untaxed part of a share of net income and does not need to be reported at **O**.

The reporting obligations under Division 6D apply to both Australian and foreign source income however Australian source income which is taxed under subsection 98(4) of the ITAA 1936 is not included as an untaxed part of a share of net income. If the share of the net income which is included in the assessable income of a non resident trustee beneficiary includes income from a foreign source, then that foreign source income is an untaxed part of a share of net income and must be reported in a TB statement.

For more information about what amounts comprise an untaxed part of a share of net income or a tax-preferred amount, see Trustee beneficiary reporting rules.

Trustee beneficiary non-disclosure tax

If you do not correctly complete the TB statement in the statement of distribution, you may be liable for TBNT.

The trustee of a closely held trust may also be liable for TBNT where a share of the trust's net income of a closely held trust is included in the assessable income of a trustee beneficiary under section 97 of the ITAA 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 distribution'.

TBNT is currently imposed at the rate of 46.5%.

If you have a TBNT liability, you can report the liability by completing the form Trustee beneficiary non-disclosure tax payment advice (NAT 72967).

For more information on the TB reporting rules, see Trustee beneficiary reporting rules.

Appendix 13: Trust assessment codes

Table 13.1

INTER VIVOS TRUSTS, including discretionary trusts	**Assessment codes**	
	Resident beneficiary	**Non-resider beneficiary**
The beneficiary is presently entitled to a share of the income of the trust and is:		
• over 18 years of age and under a legal disability or an excepted person	25*	125*
• a prescribed person receiving excepted income only	26*	126*
• a prescribed person receiving eligible income only	27*	127*
• a prescribed person receiving excepted and eligible income only	28*	128*
• a prescribed person receiving eligible income from more than one trust	29*	129*
• not under any legal disability	30	138*
• a company	34	139*
• a trustee	35	140**
• the principal beneficiary of a special disability trust	45*	145*
No beneficiary is presently entitled to a share of the income of the trust and is:		
• a resident or non-resident trust where no beneficiary is presently entitled to income	36*#	

• a bankrupt estate	37*	
• a resident or non-resident trust where no beneficiary is presently entitled to income and to which [subsection 99A(2)]() of the ITAA 1936 is to be applied.	37* #	

Deceased estate	Assessment codes	
	Resident beneficiary	Non-resident beneficiary
The beneficiary is presently entitled to a share of the income of the trust and is:		
• under a legal disability	11*	111*
• not under a legal disability	12	118*
• a company	13	119*
• a trustee	14	120**
No beneficiary is presently entitled to a share of the income of the trust and:		
• the deceased person died less than three years before the end of the income year	15* #	
• the deceased person died more than three years before the end of the income year	16* #	
• it is a non-resident trust	17*	

* Tax assessable to the trustee

**Codes 120 and 140 apply if the beneficiary of the trust is a non-resident trustee.

Use these codes, as appropriate, where the resident trustee is making a choice to be assessed to a capital gain or gains on behalf of a beneficiary or beneficiaries at item **55**.

If you have used codes 35 or 140 (inter vivos trusts) or 14 or 120 (deceased estates) you may be required to complete a TB statement, see [appendix 12]().

Appendix 14: Small business entities

Small businesses with an aggregated turnover of less than $2 million are called small business entities and may qualify for a range of tax concessions.

Eligible businesses can choose to use the concessions that best suit their needs. It is not necessary to elect to be a small business entity each year to access the concessions – however, eligibility must be reviewed each year.

A small business entity may be eligible for the following concessions:
- CGT 15-year asset exemption
- CGT 50% active asset reduction

- CGT retirement exemption
- CGT rollover provisions
- simplified depreciation rules
- immediate deduction for certain prepaid business expenses
- simplified trading stock rules
- choice to account for GST on a cash basis
- annual apportionment of GST input tax credits in certain circumstances
- paying GST by instalments
- FBT car parking exemption
- PAYG instalments based on GDP-adjusted notional tax.

Many of these concessions have additional eligibility conditions that must also be satisfied.

From the 2012–13 income year:

- the small business instant asset write-off threshold has increased from $1,000 to $6,500
- small businesses can claim an accelerated initial deduction for motor vehicles acquired in 2012–13 and subsequent years
- the long life small business pool and the general small business pool have been consolidated into a single pool to be written off at 15% in the year of allocation and 30% in following years.

For more information about small business entity concessions, see Concessions for small business entities (NAT 71874).

Eligibility

The trust will be a small business entity if it is carrying on a business and has an aggregated turnover of less than $2 million – this is known as the small business

'Business' is defined broadly to include 'any profession, trade, employment, vocation or calling, but does not include occupation as an employee'. 'Carrying on a business' is not defined in the tax law, and so takes its ordinary meaning. An entity is taken to be carrying on a business for the purposes of the small business entity test in an income year if:

- the entity is winding up a business it formerly carried on, and
- it was a small business entity in the income year that it stopped carrying on the business.

Aggregated turnover is the annual turnover of the trust, plus the annual turnovers of any entities that are **connected with** it or that are its **affiliate**.

For more information on calculating aggregated turnover including the meaning of 'connected with' or 'affiliated with' the trust, see Concessions for small business entities (NAT 71874).

Eligibility must be reviewed each year.

Calculating turnover

Turnover includes all ordinary income the trust earned in the ordinary course of business for the income year. The following are some examples of amounts included and not included in ordinary income.

Include these amounts:
- sales of trading stock
- fees for services provided
- interest from business bank accounts
- amounts received to replace something that would have had the character of business income – for example, a payment for loss of earnings.

Do **not** include these amounts:
- GST the trust has charged on a transaction
- amounts borrowed for the business
- proceeds from the sale of business capital assets
- insurance proceeds for the loss or destruction of a business asset
- amounts received from repayments of farm management deposits.

There are special rules for calculating the annual turnover if the trust has retail fuel sales or business dealings with associates that are not at market value.

For more information on calculating turnover, see Am I eligible for the small business entity concessions?

Aggregation rules

Special rules called the aggregation rules will determine who the trust is connected or affiliated with.

These rules prevent larger businesses from structuring or restructuring their affairs to take advantage of the small business entity concessions.

An entity that is connected with the trust or that is its affiliate is referred to as a relevant entity.

When calculating the aggregated turnover of the trust, do not include income from:
- dealings between the trust and a relevant entity
- dealings between any relevant entities of the trust
- a relevant entity when it was not a relevant entity of the trust.

For more information on the aggregation rules, including the meaning of 'connected with' or 'affiliated with' the trust, see Concessions for small business entities (NAT 71874).

If the trust carries on a business during the current income year and has an aggregated business turnover of less than $2 million under the aggregation rules discussed above, then the trust is a small business entity.

Business operated for only part of the year

If the trust carries on a business for only part of the income year, annual turnover must be worked out using a reasonable estimate of what the turnover would have been if the trust, or a relevant entity, had carried on a business for the whole of the income year.

Satisfying the aggregated turnover threshold

There are three ways (previous year turnover, estimate of current year turnover and actual current year turnover) to satisfy the $2 million aggregated turnover requirement, but most businesses will only need to consider the first method.

Previous year turnover

If the aggregated turnover of the trust for the previous income year was less than $2 million, it will be a small business entity for the current year.

This is regardless of its estimated or actual aggregated turnover for the current year.

Estimate of current year turnover

If the estimated aggregated turnover of the trust for the current income year is less than $2 million, it will be a small business entity for the current year.

If you are estimating your turnover, you need to assess whether you are more likely than not to have less than $2 million aggregated turnover as at the first day of the income year or, if you have started a business part way through the year, as at the time you started your business. You should estimate your turnover based on the conditions you are aware of at the beginning of the income year or, if you have started a business part way through the year, at the time that you started your business.

Trusts that commenced carrying on a business in the current year need to calculate what their turnover would have been had the business been carried on for the entire year.

This method cannot be used if the aggregated turnover of the trust in each of the previous two income years was $2 million or more.

Actual current year turnover

If the actual aggregated turnover of the trust is less than $2 million as at the end of the income year, it will be a small business entity for that year. This method is only needed if the first two tests cannot be met.

If the trust is a small business entity by means of this method, it cannot use the GST and PAYG concessions for that income year, as those particular concessions must have been chosen earlier in the income year.

Former STS taxpayers

There are transitional rules for former STS taxpayers that deal with:
- continued use of the STS accounting method
- treatment of depreciating assets previously allocated to STS pools.

There is a special rule that applies if the trust is winding up a business this year that it previously carried on and it was an STS taxpayer in the income year it ceased business.

More information

For more information, see Concessions for small business entities (NAT 71874).

Abbreviations

AAT	Administrative Appeals Tribunal
ABN	Australian Business Number
ABR	Australian Business Register
ABS	Australian Bureau of Statistics
ACT	Australian Capital Territory
ADF	approved deposit fund
ADI	authorised deposit-taking institution
AEST	Australian eastern standard time (by legal time in the Australian Capital Territory)
ANZSIC	Australian and New Zealand Standard Industrial Classification
BSB	bank state branch
CFC	controlled foreign company
CGT	capital gains tax
Commissioner	Commissioner of Taxation
DGR	deductible gift recipient
DVA	Department of Veterans' Affairs
EFT	electronic funds transfer
ELS	electronic lodgment service
EPA	environmental protection activities
ETP	employment termination payment
FBT	fringe benefits tax
FMD	farm management deposit
FMIS	forestry managed investment scheme
FTDT	family trust distribution tax

FTE	family trust election
FTP	file transfer protocol
GIC	general interest charge
GST	goods and services tax
ID	identification
IEE	interposed entity election
IRUs	indefeasible rights to use telecommunications cable systems
ITAA 1936	*Income Tax Assessment Act 1936*
ITAA 1997	*Income Tax Assessment Act 1997*
ITR 1936	Income Tax Regulations 1936
LIC	listed investment company
MLS	Medicare levy surcharge
NRAS	National rental affordability scheme
PAYG	pay as you go
PSI	personal services income
PST	pooled superannuation trust
RBA	running balance account
RSA	retirement savings account
SGC	superannuation guarantee charge
SIS	simplified imputation system
STS	simplified tax system
TAA 1953	Taxation Administration Act 1953
TBNT	trustee beneficiary non-disclosure tax
TFN	tax file number
TOFA	taxation of financial arrangements
Trust Loss Act	*Taxation Laws Amendment (Trust Loss and Other Deductions) Act 1998*
UCA	uniform capital allowance

Lodgment

The postal address for lodgment of the trust tax return is below. See Schedules for a list of the schedules that you can lodge with your *Trust tax return 2013*.

Australian Taxation Office
GPO Box 9845
IN YOUR CAPITAL CITY

The address must appear as shown above.

Do not post payments to this address. For payment information, see Payment.

If you wish to write to us, send your correspondence to:

Australian Taxation Office
PO Box 9990
PENRITH NSW 2740

Payment

We offer you a range of convenient payment options, both in Australia and overseas.

See How to pay for more information.

Your payment needs to reach us on or before its due date – check your financial institution's processing deadlines to avoid making a late payment.

More information

Publications

To get an ATO publication:

- go to **ato.gov.au** for publications, taxation rulings, practice statements and forms
- phone **1300 720 092**
- visit one of our shopfronts.

If you are a tax agent:

- go to Tax Agents Login - ATO Publication Ordering Service
- order by fax on **1300 361 462**.

Phone

Business **13 28 66**

Information about business income tax, fringe benefits tax (FBT), fuel tax credits (FTC), goods and services tax (GST), pay as you go (PAYG) and activity statements, including lodgment and payment, accounts and business registration (including Australian Business Number and tax file number), and dividend and royalty withholding tax.

Tax agents **13 72 86**

For inquiries from registered tax agents.

Individual tax **13 28 61**

Individual income tax and general personal tax enquiries.

Superannuation **13 10 20**

For information about the superannuation guarantee and Government super contributions.

Super Choice **13 28 64**

For information about choice of superannuation fund and the role of the employer

Other services

If you do not speak English well and need help from the ATO, phone the Translating and Interpreting Service (TIS) on **13 14 50**.

If you are deaf or have a hearing or speech impairment, phone the ATO through the National Relay Service (NRS) on the numbers listed below, and ask for the ATO number you need:

- TTY users, phone **13 36 77**. For ATO 1800 free call numbers, phone **1800 555 677**.
- Speak and Listen users, phone **1300 555 727**. For ATO 1800 free call numbers, phone **1800 555 727**.
- Internet relay users, connect to the NRS at www.relayservice.com.au