

2002

Partnership and trust tax returns **instructions**

www.ato.gov.au

What's new?

Consolidation
Hire purchase agreements
Limited recourse debt
Simplified tax system
Thin capitalisation provisions
Uniform capital allowances system
(and refer to PS2002/8)



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Foreword

This publication is to assist in the completion of the *Partnership tax return 2002* and the *Trust tax return 2002*. This publication is **NOT** a guide to the income tax law. More detailed information is available in other publications.

Other publications you may need to refer to when completing the returns are:

- *Australian film industry incentives*
- *Capital gains tax concessions for small business*
- *Complete tax guide for small business*
- *Capital allowances schedule 2002 instructions*
- *Deductions for prepaid expenses*
- *Eligible termination payments: A practical guide for superannuation payers who are paying an eligible termination payment to a member*
- *Family trust election and/or family trust revocation 2002*
- *Foreign income return form guide*
- *Foreign investment funds guide*
- *Guide to capital gains tax*
- *Guide to depreciating assets*
- *Guide to thin capitalisation*
- *Income Tax Assessment Act 1936*
- *Income Tax Assessment Act 1997*
- *Information for primary producers*
- *Interposed entity election 2002*
- *Losses schedule 2002 instructions*
- *Non-commercial losses: partnerships*
- *Personal services income schedule 2002*
- *Rental properties*
- *Schedule 25A 2002 instructions*
- *You and your shares*

To find out how to obtain copies of these publications, see the inside back cover of these instructions.

Please get help from the Australian Taxation Office or a professional tax practitioner if you feel this publication does not fully cover your circumstances.

As part of our commitment to producing accurate publications, a taxpayer will not be subject to penalties if it is demonstrated that a tax claim is based on wrong information contained in this publication. However, interest could be payable depending on the circumstances of each case.

There are parts of this publication that will apply only to the Partnership **P** or Trust **T** – to assist you in identifying which part applies to either one; the symbols above will be used throughout.

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New schedule

- Complete only **ONE** copy of the Thin capitalisation schedule.
- When completing the schedule print neatly in BLOCK LETTERS with a black pen only.

Thin capitalisation schedule 2002

A new thin capitalisation regime operates for income years commencing on or after 1 July 2001. As a consequence a new schedule has been introduced for the 2001–02 income year.

If the partnership or trust is subject to the thin capitalisation rules—see appendix 3 on page 70—or refer to the publication *Guide to thin capitalisation*. The completed schedule is **NOT** to be attached to the return but must be mailed to:

**ATO Production
Non-Individuals
PO Box 1365
ALBURY NSW 2640**

Schedules

- Complete only **ONE** copy of the appropriate schedule.
- Attach all completed schedules to the tax return unless otherwise directed.
- When completing the schedules print neatly in BLOCK LETTERS with a black pen only.

Capital allowances schedule 2002

From 1 July 2001, the uniform capital allowance system (UCA) applies to most depreciating assets, including those acquired before that date. The UCA consolidates a range of former capital allowance provisions, including those relating to plant and equipment. As a consequence of this legislative change the Depreciation schedule introduced for the 2000–01 income year has been replaced this year by the Capital allowances schedule.

If the partnership or trust included an amount greater than \$1000 at item 5, label **K—Depreciation expenses** or at item 46, label **P—Deduction for project pool**, the partnership or trust will need to complete and attach a Capital allowances schedule unless it is eligible to enter the Simplified tax system (STS) and has elected to do so at item 3—Simplified tax system (STS) election. The partnership or trust will also need to complete this schedule if it has included an amount of more than \$5000 at either item 42, label **N—Intangible depreciating assets first deducted** or at item 43, label **U—Other depreciating assets first deducted**.

For more information refer to the publication *Capital allowances schedule instructions*.

The labels **G, H, I, J** and **K** on Worksheet 1—Depreciating assets on page 59 correspond to labels on the Capital allowances schedule. Similarly, the labels **L,**

M, N, O, P and **Q** on Worksheet 2—Low-value pool on page 60 correspond to labels on the Capital allowances schedule. These worksheets will assist you to complete this schedule.

For more information on how to complete the worksheets refer to the publication *Guide to depreciating assets*.

Capital gains tax (CGT) schedule 2002 **T**

A *Capital gains tax (CGT) schedule 2002* (CGT schedule) must be completed and attached to the trust's tax return if the trust's:

- total current year capital gains for the income year are greater than \$10 000, or
- total current year capital losses for the income year are greater than \$10 000.

The publication *Guide to capital gains tax* will assist taxpayers to complete the CGT schedule. It also includes:

- a capital gain or 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
- the CGT schedule.

Losses schedule 2002 **T**

Trusts must complete and attach a schedule where the trust:

- has a total of tax losses and net capital losses carried forward to the 2002–03 income year greater than \$100 000
- is a life insurance entity and has either a virtual pooled superannuation trust (PST) tax loss or a virtual PST net capital loss carried forward to the 2002–03 income year
- is a listed widely held trust that is required to satisfy the 'same business test' in Subdivision 269-F of Schedule 2F of the *Income Tax Assessment Act 1936* (ITAA 1936)—as required by section 266-125 of Schedule 2F— to be able to claim a deduction for a tax loss in the 2001–02 income year or to apply a tax loss in a later income year
- claims a deduction for film losses
- has film losses carried forward to later income years
- claims a deduction for foreign source losses
- has 'current year' foreign source losses
- has foreign source losses carried forward to later income years
- claims a deduction for prior year controlled foreign company (CFC) losses
- has 'current year' CFC losses, or
- has CFC losses carried forward to later income years.

Where a Losses schedule is required to be completed, totals of the amounts at part A of the Losses schedule are to be transferred to the corresponding labels **U** and **V** at item 24—Losses information on the Trust tax return.

However, if a trust is not required to complete a Losses schedule—but has tax losses or net capital losses available to be carried forward to later income years, the information required at labels **U** and **V** at item 24 of the Trust tax return would need to be completed as appropriate. For more information refer to the *Losses schedule instructions*.

If a trust needs to, under the above criteria, complete a Losses schedule, it may also be necessary for the trust to complete a CGT schedule. For more information refer to the *Guide to capital gains tax*.

Non-individual PAYG payment summary schedule 2002

Pay as you go (PAYG) withholding, which commenced on 1 July 2000 replaced several old withholding systems. It also introduced several new withholding events including:

- business to business transactions where the payee—those people or businesses who receive payments from payers—does not quote an Australian Business Number (ABN)
- payments under a labour hire arrangement, or specified by regulations, and
- payments made under a PAYG voluntary agreement.

If an amount from a payment to the partnership or trust was withheld by the payer because the partnership or trust did not quote an ABN, the partnership or trust should have received a *Payment summary—withholding where ABN not quoted* from the payer.

A payer may issue a receipt, remittance advice or similar document in place of the *Payment summary—withholding where ABN not quoted*. Where the partnership or 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.

Details from each *Payment summary—withholding where ABN not quoted* must be included on a Non-individual PAYG payment summary schedule.

Complete a Non-individual PAYG payment summary schedule where amounts are reported at:

- item 5, labels **C** and/or **D**—**Gross payments where ABN not quoted**
- item 6, label **T**—**Tax withheld where ABN not quoted**.

Print the partnership's or trust's tax file number (TFN) and name in the appropriate boxes at the top of the schedule.

From each *Payment summary—withholding where ABN not quoted*, record on the schedule:

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

When details of all these payment summaries have been copied to the schedule, attach the schedule to the Partnership or Trust tax return.

Copies of each *Payment summary—withholding where ABN not quoted* are **NOT** attached to the tax return but retained with the partnership's or trust's copy of the tax return. A copy of the schedule should also be retained with partnership's or trust's tax records.

Personal services income schedule 2002

New rules for the income tax treatment of certain personal services income (PSI) earned by contractors and consultants started on 1 July 2000. The original rules were subsequently amended by the *Taxation Laws Amendment Act (No 6) 2001* (TLAA 6 2001).

The main amendments allow:

- all taxpayers including personal service entities (companies, partnerships and trusts that have an individual's PSI) to self-assess against the results test to determine whether a personal service business is being conducted. This applies even where 80 per cent or more of the PSI comes from one source.
- taxpayers to be able to apply to the Commissioner for a determination that they are conducting a personal service business. Taxpayers that do not meet the results test and have 80 per cent or more of their PSI from one source must have a determination from the Commissioner otherwise the measure will apply.
- commission agents (provided they meet certain conditions) to be treated as having received PSI directly from the customers of their principal for the purposes of the 80 per cent rule and the unrelated clients test.
- principle work that a partner in a partnership performs in relation to another partner's personal service work to be counted for the purposes of determining whether the second partner satisfies the employment test.

These amendments like the original provisions, apply to the 2000–01 income year and later years.

Note: Transitional arrangements for the 2000–01 and 2001–02 income years apply to payees under the Prescribed payments system (PPS) that had a valid PPS payee declaration in force at 13 April 2000. In these circumstances the measure does not apply until 1 July 2002.

If the partnership or trust is in receipt of an individual's PSI complete item 27—Personal services income in the Partnership or Trust tax returns. If the partnership or trust does not have a valid *PPS payee declaration*, complete a Personal services income schedule (PSI schedule) and attach it to the tax return. For more information on PSI rules refer to the instructions that accompany the PSI schedule.

General Information

Important messages

Consolidation—taxing wholly-owned groups as single entities

The proposed consolidation measure is a Government business tax reform initiative that is due to commence from 1 July 2002.

At the time this publication was printed the proposed consolidation legislation has not been introduced into Parliament.

Consolidation may be an option for your business if the business structure includes a company that owns 100 per cent of another company, trust or partnership.

Many small businesses use simple structures—for example, a single company, partnership or trust, and will not be affected by the proposed consolidation measure. It is not relevant to the business activity of individuals (such as people operating as sole traders or in partnership).

For more detailed information about the consolidation measure visit the Business tax reform section of www.taxreform.ato.gov.au or phone the Tax reform infoline on 13 2478.

Electronic lodgments and the *Partnership and trust rental property schedule 2002*

Tax agents who lodge Partnership or Trust tax returns through the Electronic Lodgment System (ELS) are required to complete the *Partnership and trust rental property schedule 2002* where item 9—Rent is to be completed. For instructions on how to complete the schedule, visit the ATO website at www.ato.gov.au and enter '*partnership and trust rental property schedule*' into the search function.

Disposal of depreciating assets, which are items of plant on which investment allowance was claimed in an earlier income year

Where an investment allowance has been claimed on an item of plant in an earlier income year and the partnership or trust has:

- ceased to own or lease the plant
- leased out the plant
- let the plant on hire purchase
- granted a right to another person to use the plant
- used the plant outside of Australia
- used the plant other than for producing assessable income
- recouped or became entitled to recoup expenditure on that plant,

keep a record of the following:

1. the investment allowance claim, including the income year in which it was made, the amount of the claim and a description of the plant involved

2. the date the plant was first used or installed ready for use
3. the sale, use by or granting of rights to use to another person, recoupment of expenditure, including dates where any other party is involved—include the name and address of that person, company, partnership or trust and the sale price if sold, and
4. if the event in 3 was intended at the time the plant was acquired, constructed or taken on lease.

T If there is no trustee who is an Australian resident the onus is on the public officer to keep a record of this information.

Information matching

The ATO is making increasing use of information matching technology to verify the correctness of tax returns. Ensure that all information is fully and correctly declared on your tax returns. Certain claims that are made may be subject to additional scrutiny by the ATO.

In particular, the ATO will be checking the following in the 2001–02 tax returns:

- income and credits for withholding where an ABN has not been quoted, against information provided to the ATO by payers—see pages 19 and 29
- distributions from partnerships and trusts—see page 31
- total salary and wages paid will be cross checked against the PAYG withholding system—see page 40
- dividend and interest income—see pages 11 and 65.
- imputation credits claimed. The ATO will also check that distributions which include franked dividends are correctly grossed up.

Hobby or business

It is important to determine whether the partnership or 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' which various Courts and Tribunals have taken into account in determining if a business exists for tax purposes include whether the activity:

- has actually commenced
- 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 and/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, and
- is not more properly described as a hobby.

For more information, refer to 'Are you carrying on a business' in the publication *Complete tax guide for small business*. Primary producers should also refer to *Taxation Ruling TR 97/11*.

Private ruling by the Commissioner of Taxation

A private ruling is a written expression of opinion by the Commissioner of Taxation (Commissioner) about the way in which a section or provision of the income tax law would apply to a person in relation to an arrangement in respect of a specified income year.

An *Application for private ruling* must be in writing and in accordance with Part IVAA of the *Taxation Administration Act 1953*.

The information and documentation that must accompany a private ruling request must be sufficient for the Commissioner to make a private ruling. Such information will include the parties involved, the facts, income years covered by the arrangement, issues and questions raised that relate to specific tax laws and also an analysis and opinion 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. For more information refer to *Taxation Ruling TR 93/1* and *Addendum*.

Publication

To further improve the administration of the private rulings system, the ATO now publishes all Notices of Private Rulings for public record. These publications can be found on our website at www.ato.gov.au

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

Private ruling applicants (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 that 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.

Prior to publication applicants are provided with the opportunity to comment on the edited version of their private ruling.

Review rights

Taxpayers can object against adverse private rulings in much the same way as they can object against assessments. They can also seek 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. An objection to a ruling can be lodged within the later of:

- 60 days after the receipt of the ruling
- 4 years from the last day allowed from lodging a tax return for the last income year covered by the ruling.

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

Where a taxpayer has objected against a private ruling the taxpayer cannot object on the same grounds against a later assessment, unless the facts have changed.

Private rulings dealing with Income Tax Assessment Act 1936 (ITAA 1936) continue to apply to *Income Tax Assessment Act 1997* (ITAA 1997), to the extent that the old law ruled on expresses the same ideas as the new law in ITAA 1997—refer to *Taxation Ruling TR 97/16*.

Withdrawals

A private ruling can be withdrawn in very limited circumstances at a later date by the Commissioner, but not so as to retrospectively affect the taxpayer's income tax position.

Penalties

The law imposes penalties on partners and trustees for:

- failing to lodge a tax return on time
- having a tax shortfall or over-claiming a credit that is caused by:
 - making a false or misleading statement
 - taking a position that is not reasonably arguable
 - disregarding a private ruling
- refusing to provide a tax return from which the Commissioner can determine a liability
- failing to keep and produce proper records
- preventing access to premises and documents, or
- failing to retain or produce declarations.

Partners, trustees and beneficiaries are liable for the general interest charge (GIC) where they have:

- tax, penalty or certain other amounts which remain unpaid after the due date for payment, or
- a variation of a PAYG instalment amount or rate which is less than 85 per cent of the amount or rate that would have covered the partner's, trustee's or beneficiary's actual liability on business and investment income for the year.

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.

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

Record keeping requirements

Record keeping and retention

Persons carrying on a business must keep records that record and explain all transactions and other acts, engaged in by the person, which are relevant for any taxation purpose. Subsection 262A(2) of ITAA 1936 prescribes the records to be kept as including:

- any documents that are 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 taxation 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.

Generally, the partnership or trust must keep all relevant records for 5 years after those records were prepared or obtained, or 5 years after the completion of the transactions or acts to which those records relate, whichever is the later. This period may be extended in certain circumstances. Records must be in writing and in English, however they may be kept in an electronic form, or on microfiche on the condition that the records are in a form that ATO staff can access and understand to ascertain the person's taxation liability—refer to *Taxation Ruling TR 96/7 section 262A* and *Taxation Ruling TR 97/21*.

Partnership record retention

- a copy of the partnership agreement. If none exists, a copy of the partnership's certificate of registration. If none exists, documentary evidence that partners were carrying on their activities as a partnership
- commencement date of the partnership or the date of reconstitution
- detailed statement of assets and liabilities
- details of each partner's capital accounts and sources of capital contributed
- details of each partnership bank account including the name and number of the account, the bank and branch at which it is kept, the date the account was

opened and the names of persons authorised to operate the account and the date of such authorisation

- the family relationship of the partners and, if the partners are husband and wife, details of the nature and extent of the services rendered by each to the partnership
- whether the partners own jointly or in common, any property from which interest, dividends, rents or royalties are derived
- the names in which business contracts are made
- details of any services rendered in the production of assessable income by a partner under 18 years of age, or by a beneficiary under 18 years of age in a trust where the trustee is a partner. Details to include the nature, extent and value of the services rendered
- whether the partnership is constituted or conducted such that any partners cannot, of their own will, deal with any part of their share of the partnership income, and
- whether any partners are required to use any part of their share of the profits to meet any debt to another person.

Tax losses record keeping **T**

Where a trust incurs tax losses, records may need to be kept longer than 5 years from the date when the losses were incurred. Generally tax losses incurred this year can be carried forward indefinitely, until they are applied by recoupment. When applied, the loss amount is a figure that leads to the calculation of 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 (as applicable) for the recoupment year in which the losses are fully applied has lapsed (up to 6 years from the date of that assessment).

Capital gains tax record keeping **T**

For additional record keeping information concerning capital gains tax refer to the publication *Guide to capital gains tax*.

E-record

The ATO has developed E-record to assist small/micro businesses and non-profit organisations keep good business records electronically.

It is designed for businesses who use a cash basis of accounting and who wish to make the transition from paper based products to an electronic record keeping package. It is not designed for those businesses who are already using a commercially available accounting software package.

The E-record CD-ROM consists of 2 components:

- a multi-media component that contains information on record keeping and a demonstration—through examples—of how the E-record package works, and
- a set of simple to use electronic worksheets that produce daily, weekly and monthly summaries, with the added benefit of automatic calculations and consolidations. This will assist businesses in the completion of their *Business Activity Statement* (BAS).

The enhancements contained in the latest version of E-record include:

- the 2001–2002 financial year activity statements
- provision for use by multiple businesses—that is, more than one business
- the ‘derived from accounts method’—that is, recording actual GST amount
- 20 new receipt categories
- an increase in the number of payment categories, and
- new worksheets—asset register, fringe benefits tax and PAYG instalment worksheet.

Businesses can download E-Record version 2.0 from the ATO website at www.ato.gov.au/erecord or obtain a copy of the CD-ROM by phoning **1300 139 051**.

Record keeping for overseas transactions and interests

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

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

- of any income from sources outside Australia not disclosed elsewhere in the tax return or
- of any property—including money—situated outside Australia. Where this is the case keep a record of the following:
 - the location and nature of the property
 - the name and address of any partnership, trust, business, company, or other entity in which the partnership or trust has an interest, and
 - the nature of the interest.

If an overseas interest was created by exercising any power of appointment, or if the partnership or trust had an ability to control or achieve control of overseas income or property, keep a record of the following:

- the location and nature of the property, and
- the name and address of any partnership, trust, business, company, or other entity in which partnership or trust has an interest.

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

Information for Partnerships

Partnership

A partnership is an association of persons carrying on a business as partners or receiving income jointly refer to *Taxation Ruling TR 94/8* (including husband and wife partnership).

A partnership is not a taxable entity. Partners are taxed on their share of profits or are entitled to a deduction for their share of a loss in their own tax returns.

Some deductions are not available to the partnership but may be claimed by the partners—see appendix 8 on page 84.

Non-resident partner

A partner who is not a resident of Australia is not taxed on the share of net income of the partnership attributable to sources outside Australia. If you believe that any partner who has a share of such income is not an Australian resident, keep a record of their name and residential address, the basis of any contention and the partner’s share of income derived from sources outside Australia.

Variation of partnership agreement

A copy of any variation to the partnership agreement must be retained for the life of the partnership plus a period of 5 years.

Reconstituted partnerships

Where a partnership is reconstituted—that is, a change in membership through admission, retirement or death of members—a new TFN is usually required. A Partnership tax return is to be lodged for the old partnership from the beginning of the income year to the date of the reconstitution. Another Partnership tax return for the new partnership is required from the date of the reconstitution to the end of the income year.

A new TFN and 2 tax returns are not required where a partnership has 20 or more partners and the change—under the reconstitution—represents less than 10 per cent change in the beneficial interest of the partnership.

For a reconstituted partnership required to lodge one tax return, the following details need to be supplied with the tax return:

- the date of dissolution
- the date the new partnership came into existence
- the names of all outgoing partners, and
- the beneficial entitlements of all existing and new partners.

Lodgment of a Partnership tax return

A Partnership tax return is lodged by the partners resident in Australia or by the senior partner. Where no partner is resident, the agent in Australia lodges the tax return. For information relating to non-residents, see Non-resident partner on page 6.

Keep a copy of the Partnership tax return and related documents as there may be a charge for obtaining a copy from the ATO.

Lodge a Partnership tax return except where:

- income is only received from a joint bank account or from a jointly owned rental property
- an application has been made for exemption from lodging a Partnership tax return.

The ATO may grant an exemption if each partner gives an undertaking to provide details of all relevant income, expenditure and deduction items, as well as distribution details in their own tax return.

The application also confirms that the partners have authorised their tax agent to undertake on their behalf that the information pertaining to the partnership appears in each partner's own tax return. If granted, an exemption applies to all future year tax returns until the partners or the ATO cancels the exemption.

An exemption is not granted where a partner is claiming a credit for amounts withheld, under the no ABN withholding rules, from payments made to a partnership.

Send the Partnership tax return to the nearest ATO—for lodgment addresses see appendix 15 on page 98. Send those tax returns which include one or more Interposed entity election(s) to the address on page 8.

Limited partnerships

All partnerships lodge a Partnership tax return except certain limited partnerships, which are taxed as companies and are therefore required to lodge a *Company tax return 2002*.

Other attachments to the tax return

In some cases the ATO needs more information about the partnership to raise correct assessments for the individual partners. These are:

- where the partnership attaches an election, notification, request or application when lodging the Partnership tax return
- where the partnership has received a bonus or other amount in respect of a short-term life assurance policy issued after 27 August 1982—see item 12—Other Australian income on page 35
- where the partnership has paid or credited unfranked dividends or interest to a non-resident of Australia or has received unfranked dividends or interest on behalf of a non-resident of Australia—see appendix 1 on page 68

- for reconstituted partnerships required to lodge one tax return—see Reconstituted partnerships on page 6—supply the following details:
 - the date of dissolution
 - the date the new partnership came into existence
 - the names of all outgoing partners, and
 - the beneficial entitlements of all existing and new partners.

If any of the above circumstances apply, attach separate pages, headed *Schedule of additional information*, showing the full details, the partnership name and TFN, sign it and attach it to the Partnership tax return. Print Yes in the Have you attached any 'other attachments' box on page 1 of the tax return.

Partnerships and capital gains tax

A partnership does not own assets for capital gains tax (CGT) purposes. A partnership asset is owned by the partners in the proportion to which they have agreed. If a CGT event happens to a partnership asset during the income year, or the partnership received a share of a capital gain from a trust, each partner must include their share of the capital gain or capital loss in their own tax return. For more information about how a partner returns their share of a capital gain or capital loss refer to the publication *Guide to capital gains tax*.

Page 1 Partnership tax return

Attachments to the tax return

Print Yes in the Have you attached any 'other attachments'? box on page 1 of the Partnership tax return if the partnership has included additional information. These documents are attached to the tax return.

Tax file number (TFN)

Print the TFN of the partnership in the boxes provided.

Name of partnership

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

If the partnership name is legally changed, send written advice of the change to the ATO at the time the change is made.

Australian Business Number (ABN)

The ABN is a single, unique business identifier to be used for, ultimately, all dealings with the Commonwealth Government. It is also available to State, Territory and local government regulatory bodies. Identification for taxation law purposes is only one of the objects of the ABN.

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

Follow the instructions on the Partnership tax return for the following items:

- Previous name of the partnership
- Current postal address
- Postal address on previous tax return.

Full name of the partner

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

Interposed entity election status

This item must be completed if either of the following apply. If the partners:

- have previously made one or more interposed entity elections specifying a day in the 1994–95, 1995–96, 1996–97, 1997–98, 1998–99, 1999–2000 or 2000–01 income years in accordance with section 272-85 of Schedule 2F to ITAA 1936 and, if applicable, items 23 or 23A of Schedule 1 to the *Taxation Laws Amendment (Trust Loss and Other Deductions) Act 1998* (Trust Loss Act), or
- are making one or more interposed entity elections specifying a day in the 2001–02 income year in accordance with section 272-85 of Schedule 2F to ITAA 1936.

Note: Details of any interposed entity elections the partners have previously made in accordance with section 272-85 of Schedule 2F to ITAA 1936 and if applicable items 23 or 23A of Schedule 1 to the Trust Loss Act specifying a day in an income year before the 2001–02 income year must have been provided in a 1999, 2000 or 2001 interposed entity election that was either:

- included in the partnership's tax return for the 1998–99, 1999–2000 or 2000–01 income year respectively, or
- if the partnership was not required to lodge a tax return for the relevant income year, sent to the ATO in accordance with the instructions to the 1999, 2000 or 2001 interposed entity election.

Election forms in relation to interposed entity elections made specifying a day in an income year **BEFORE** the 2001–02 income year must **NOT** be attached to the Partnership tax return.

If the partners have previously made one or more elections specifying a day in an income year before the 2001–02 income year, the appropriate election status code is printed in the box at this item. However, an interposed entity election in respect of that election is not required to be attached to the Partnership tax return.

If the partners are making one or more interposed entity elections specifying a day in the 2001–02 income year, the appropriate election status code must be printed in the box at this item, and an *Interposed entity election 2002* is completed for each election specifying a day in the 2001–02 income year and attached to the Partnership tax return.

Instructions on how to complete the *Interposed entity election 2002* are provided on the form itself.

If the Partnership tax return is not lodged using the ELS, send the tax return including the *Interposed entity election 2002* to:

**ATO Production
Non-individuals
GPO Box 9990
BOX HILL VIC 3128**

Election status code

Print in the box at this item the code from **Table 1** which corresponds to the interposed election status of the partnership.

Choose the code for the income year which has been specified in the interposed entity election made by the partners—if only one interposed entity election is made—or the earliest income year which has been specified in all of the interposed entity elections made by the partners—if more than one interposed entity election is made.

Table 1

CODE	INCOME YEAR SPECIFIED IN FIRST INTERPOSED ENTITY ELECTION
I	1994–95
J	1995–96
K	1996–97
L	1997–98
M	1998–99
N	1999–2000
O	2000–01
P	2001–02

Example 1

The partners have previously made an interposed entity election specifying a day in the 1994–95 income year in accordance with section 272-85 of Schedule 2F to ITAA 1936 and item 23 of Schedule 1 to Trust Loss Act and are not making another interposed entity election specifying a day in the 2001–02 income year.

Print code **I** in the box at this item and the partnership is not required to complete an *Interposed entity election 2002* or attach it to the Partnership tax return.

Example 2

The partners have previously made an interposed entity election specifying a day in the 1996-97 income year in accordance with section 272-85 of Schedule 2F to ITAA 1936 and items 23 or 23A of Schedule 1 to Trust Loss Act—whichever is applicable—and want to make another interposed entity election specifying a day in the 2001-02 income year in accordance with section 272-85 of Schedule 2F to ITAA 1936.

Print code **K** in the box at this item and the partners provide details in an *Interposed entity election 2002* of the election they are making specifying a day in the 2001-02 income year. The completed *Interposed entity election 2002* is attached to the Partnership tax return.

Example 3

The partners have not previously made an interposed entity election specifying a day in an income year before the 2001-02 income year but want to make an interposed entity election specifying a day in the 2001-02 income year in accordance with section 272-85 of Schedule 2F to ITAA 1936.

Print code **P** in the box at this item and the partners provide details in an *Interposed entity election 2002* of the election it is making specifying a day in the 2001-02 income year. The completed *Interposed entity election 2002* is attached to the Partnership tax return.

Family trust distribution tax

A consequence of a partnership making an interposed entity election is that under section 271-25 of Schedule 2F to ITAA 1936 a special tax—family trust distribution (FTD) tax—is payable at 48.5 per cent by the partners on any conferral of present entitlement to, or distribution of, income or capital of the partnership 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 ITAA 1936.

For this purpose, a distribution of income or capital by a partnership has the meaning given in sections 272-55 and 272-60 of Schedule 2F to ITAA 1936.

Payment of FTD tax is made by mail, using a *Family trust distribution tax 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 mail.

Mailing addresses for the payment of FTD tax are as follows:

Clients from **NSW, ACT and QLD**

**Australian Taxation Office
Locked Bag 1793
PENRITH NSW 1793**

All other clients

**Australian Taxation Office
Locked Bag 1936
ALBURY NSW 1936**

Tax file number of former partnership

If this is the first tax return after a reconstitution, show the TFN of the former partnership in the box provided.

For reconstituted partnerships required to lodge one tax return for the income year, the TFN retained for the new partnership is also shown in the box provided for the former partnership—see Reconstituted partnerships on page 6.

Final tax return

If the partnership does not expect to lodge further tax returns, print *Final* in the box at this item.

Attach a statement to the Partnership tax return showing:

- the reason why further tax returns will not be lodged, and
- the manner of disposal of any assets of the trust if not disclosed elsewhere in the tax return.

Print Yes in the Have you attached any 'other attachments'? box on page 1 of the tax return.

If it is the final tax return because the partnership has been reconstituted, also include in the statement the names of the partners in the new partnership and the trading name, if any, of the new partnership.

Declaration

One of the partners must sign and date the declaration and all attached documents.

Hours taken to prepare and complete this return

The ATO is 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 to this item 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 and/or putting the tax affairs of your business in order so the information can be handed to your tax agent.

Note:

- The answer should relate to the time both your partners 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.
- Note to tax agents: If you are preparing this tax return on behalf of your client, include your time and a reliable estimate of their time.

Tax agent's declaration

Where the tax agent is a partnership or a company, a person who is registered as a nominee of that partnership or company signs this declaration in the name of the partnership or company. That person's name is also printed at this item.

Information for Trusts**Appointment of public officer**

Where a trust carries on a business in Australia or derives income from property from sources in Australia and there is no trustee who is an Australian resident, the trustee generally appoints a public officer. The public officer is a natural person of at least 18 years of age residing in Australia. Notify the ATO of the appointment of a public officer in writing, specifying the name and an address for the service of notices.

The appointment is unnecessary where the Australian income of the trust consists solely of dividends, and/or interest and/or royalties subject to withholding tax, or the Commissioner has granted an exemption in writing.

Failure or neglect to appoint a public officer may result in prosecution. On conviction, a fine of up to \$50 may be imposed for each day that the trustee fails or neglects to meet these requirements.

The public officer shall be answerable for the doing of all such things as are required to be done by the trustee of the trust under ITAA 1936, ITAA 1997 or Regulations, and in the case of default is liable to the same penalties.

Lodgment of a Trust tax return

Irrespective of the amount of income derived, a trust tax return is furnished by the trustees resident in Australia or by any one of them if required by the Commissioner by the notice published in the *Commonwealth of Australia Gazette*.

Where no trustee is resident in Australia, the trust tax return is furnished by the public officer of the trust or, where it is not required that a public officer be appointed, by an agent in Australia for the trustees.

For children's saving accounts refer to *Taxation Ruling IT 2486*.

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

The addresses for lodging tax returns are listed at appendix 15 on page 98.

The following are the **ONLY** schedules that are sent with the Trust tax return:

- *Capital allowances schedule 2002*
- *Capital gains tax (CGT) schedule 2002*
- *Family trust election and/or family trust revocation 2002*
- *Interposed entity election 2002*
- *Losses schedule 2002*
- *Non-individual PAYG payment summary schedule 2002*
- *Personal services income schedule 2002*
- *Schedule 25A 2002*.

Some schedules, such as the Thin capitalisation schedule, are required to be mailed to a specific address. 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 offsets

A beneficiary may be entitled to claim certain tax offsets, such as the tax offset for:

- dependent spouse (without dependent spouse or child)
- medical expenses
- 30% private health insurance
- Senior Australians.

For more information refer to *TaxPack 2002*.

Where a trustee is assessable on behalf of a beneficiary who is presently entitled but under a legal disability, the trustee is entitled to tax offsets to which that beneficiary would be entitled. Include a statement showing the type and amounts of any claim for a tax offset, sign the statement and attach it to the Trust tax return.

Print Yes in the Have you attached any 'other attachments'? box on page 1 of the tax return.

Note: Rebates are now referred to in ITAA 1997 as a category of tax offsets.

Private health insurance tax offset 

Where a trustee is assessable on behalf of a beneficiary who is presently entitled but under a legal disability—refer to section 98 of ITAA 1936 and the beneficiary is entitled to a tax offset under the 30% private health insurance rebate, include a separate statement showing the details listed below, sign it and attach it to the Trust tax return. Print Yes in the Have you attached any 'other attachments'? box on page 1 of the tax return. The details are:

- trust name
- trust TFN
- amount of 30% tax offset claimed
- health fund membership number
- health fund identification (ID) code.

For more information refer to *TaxPack 2002*.

Special cases

All trusts lodge a trust tax return except corporate unit trusts and public trading trusts, which are taxed as companies and are therefore required to lodge a *Company tax return 2002*. These entities are defined below and must apply for a company TFN.

Note: Even though they are taxed as companies the trust loss provisions of Schedule 2F to ITAA 1936 apply to corporate unit trusts and public trading trusts. For more information about the trust loss provisions see appendix 9 on page 86.

Corporate unit trusts

A trust is a corporate unit trust in relation to an income year if:

- it qualifies as 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 less persons hold 75 per cent or more of the beneficial interest of the income or the property of the trust.

A unit trust is a resident unit trust in relation to 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 per cent 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 whose units are listed on a stock exchange or offered to the public or held by 50 or more persons except where 20 or fewer persons hold 75 per cent or more of the beneficial interests in the income or property of the trust.

In addition, a unit trust is a public unit trust if an entity exempt from tax, or a complying superannuation fund, complying approved deposit fund (ADF) or a pooled superannuation trust (PST) holds a beneficial interest in 20 per cent or more of the property or income of the trust, or are paid or credited with 20 per cent or more of the moneys paid by the trust to the unit holders, or an arrangement exists whereby the 2 situations just outlined could have been obtained.

A trading trust for this purpose is a trust that carries on a business that does not consist wholly of:

- investing in land for rental, or
- investing or trading in unsecured 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 insurance policies, or rights or options in any of these.

Payment arrangements

Paying your tax debt

Income tax debts must be paid by the due date.

You can make payments by one of 5 methods. These are listed at appendix 16 on page 100. For more information phone **1800 815 886**.

The general interest charge (GIC) is payable for all outstanding income tax debts.

Changes contained in *Taxation Laws Amendment Act (No 3) 2001* provide that the rate used to calculate the GIC, which is levied on outstanding amounts due to the ATO, is now calculated by adding 7 per cent to the 90-day bank accepted bill rate. The GIC rate is updated quarterly. Any GIC is payable from the statutory due date, which is either 21 days from a prescribed date, or 21 days from the date of deemed receipt of the notice of assessment, whichever is the later.

For more information on the GIC, contact the Tax reform info line on **13 2478**.

The ATO will adopt any appropriate collection approach to collect the tax. These include telephone contact, letters, payment by instalments, serving 'garnishee' notices on your bank or trade debtors, and taking legal action in appropriate cases.

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

To avoid action being taken to recover the debt, telephone the Tax reform info line on **13 2478**. Taxpayers are expected to organise their affairs to ensure that they pay their debts on time. Nevertheless, the ATO may allow taxpayers to pay their debts under a mutually agreed payment plan where they face genuine difficulty and have the capacity to pay the debt and the GIC on outstanding amounts of tax. Approval to do this will not be given automatically. You will need to provide details of your financial position, including a statement of your assets and liabilities and details of your income and expenditure. The ATO will also want to know what steps you have taken to obtain funds to pay your tax debt and the steps you are taking to meet future tax debts on time.

Page 1 Trust tax return

Attachments to the tax return

Print Yes in the Have you attached any 'other attachments'? box on page 1 of the Trust tax return if the trust has included additional information. These documents are attached to the tax return.

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, send written advice of the change to the ATO at the time the change is made. Do **NOT** show particulars of trustees or administrators at this item.

Australian Business Number (ABN)

The ABN is a single, unique business identifier to be used for, ultimately, all dealings with the Commonwealth Government. It is also available to State, Territory and local government regulatory bodies. Identification for taxation 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 the trust
- Current postal address
- Postal address on previous tax return.

Full name of the trustee

Show the surname or family name and given names of the trustee to whom 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 telephone number

Print a telephone number on which the trustee can be contacted during business hours.

Family trust/interposed entity election status

This item must be completed if any of the following apply. The trustee(s) of the trust:

- has previously made a family trust election specifying the 1994–95, 1995–96, 1996–97, 1997–98, 1998–99, 1999–2000 or 2000–01 income year in accordance with section 272-80 of Schedule 2F to ITAA 1936 and, if applicable, items 22 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 ITAA 1936 in an income year before the 2001–02 income year, or
- is making a family trust election specifying the 2001–02 income year in accordance with section 272-80 of Schedule 2F to ITAA 1936, and/or
- has previously made one or more interposed entity elections specifying a day in the 1994 95, 1995–96, 1996–97, 1997–98, 1998–99, 1999–2000 or 2000–01 income year in accordance with section 272-85 of Schedule 2F to ITAA 1936 and, if applicable, items 23 of Schedule 1 to the Trust Loss Act, and/or
- is making one or more interposed entity elections specifying a day in the 2001–02 income year in accordance with section 272-85 of Schedule 2F to ITAA 1936, or
- is revoking from a time in the 2001–02 income year a previously made family trust election in accordance with sections 272-80(6) to (8) of Schedule 2F to ITAA 1936.

Note: Details of any family trust election the trustee(s) has previously made in accordance with section 272-80 of Schedule 2F to ITAA 1936 or, if applicable, item 22 of Schedule 1 to the Trust Loss Act specifying an income year before the 2001–02 income year must have been provided in a 1999, 2000 or 2001 Family trust election and/or family trust revocation and details of any interposed entity elections the trustee(s) has made in accordance with section 272-85 of Schedule 2F to ITAA 1936 and, if applicable, item 23 of Schedule 1 to Trust Loss Act specifying a day in an income year before the 2001–02 income year must

have been provided in a 1999, 2000 or 2001

Interposed entity election that was either:

- included in the trust's tax return for the 1998-99, 1999-2000 or 2000-01 income year respectively, or
- if the trust was not required to lodge a tax return for the relevant year, sent to the ATO in accordance with the instructions to the 1999, 2000 or 2001 Interposed entity election.

Election forms in relation to family trust and interposed entity elections made specifying an income year before the 2001-02 income year must not be attached to the Trust tax return.

Note: A family trust election can only be revoked by a trust which was a fixed trust at the beginning of the specified income year and which satisfies all of the conditions in subsections 272-80(6) to (8) of Schedule 2F to ITAA 1936.

If the trustee(s) has previously made a family trust election and/or one or more interposed entity elections specifying an income year before the 2001-02 income year, the appropriate election status codes must be printed in the box at this item. However, a family trust and/or interposed entity election in respect of these elections is not required to be attached to the Trust tax return.

If the trustee(s) is making a family trust election or one or more interposed entity election(s) specifying the 2001-02 income year, the appropriate election status codes must be printed in the box at this item and the approved forms, *Family trust election and/or family trust revocation 2002*—if applicable—is completed specifying the 2001-02 income year and/or an *Interposed entity election 2002*—if applicable—is completed for each interposed entity election specifying a day in the 2001-02 income year and attached to the Trust tax return.

Instructions on how to complete the *Family trust election and/or family trust revocation 2002* and *Interposed entity election 2002* are provided on the forms themselves.

If the Trust tax return is not lodged using the ELS, send the tax return including the *Family trust election and/or family trust revocation 2002* and/or the *Interposed entity election 2002* to:

ATO Production

Non-individuals

GPO Box 9990

BOX HILL VIC 3128

Election status codes

Print in the box at this item the code from **Table 2** for the income year, which has been specified in the family trust election. If the trustee(s) of the trust has not made or is making a family trust election, do not choose a code from **Table 2**.

Table 2

CODE	INCOME YEAR SPECIFIED IN FAMILY TRUST ELECTION
A	1994-95
B	1995-96
C	1996-97
D	1997-98
E	1998-99
F	1999-2000
G	2000-01
H	2001-02

Print in the box at this item the code from **Table 3** for the income year, which corresponds to the interposed entity election of the trust. Choose the code for the income year which has been specified in the interposed entity election made by the trustee(s)—if only one interposed entity election is or has been made—or the earliest income year which has been specified in all of the interposed entity elections made by the trustee(s)—if more than one interposed entity election is or has been made. If the trustee(s) of the trust has not made or is making any interposed entity elections, do not choose a code from—**Table 3**.

Table 3

CODE	INCOME YEAR SPECIFIED IN FIRST INTERPOSED ENTITY ELECTION
I	1994-95
J	1995-96
K	1996-97
L	1997-98
M	1998-99
N	1999-2000
O	2000-01
P	2001-02

Revocation

Print code **R** in the box at this item if the family trust election made by the trust is being revoked from a time in the 2001-02 income year in accordance with subsections 272-80(6) to (8) of Schedule 2F to ITAA 1936.

Example 4

The trustee has previously made a family trust election specifying the 1994-95 income year in accordance with section 272-80 of Schedule 2F to ITAA 1936 and item 22 of Schedule 1 to Trust Loss Act and an interposed entity election specifying a day in the 1994-95 income year in accordance with section 272-85 of Schedule 2F to ITAA 1936 and item 23 of Schedule 1 to Trust Loss Act.

Print code **AI** in the box at this item and the trustee is not required to complete a *Family trust election and/or family trust revocation 2002* or an *Interposed entity election 2002*, or attach them to the Trust tax return.

Example 5

The trustee previously made a family trust election specifying the 1996–97 income year in accordance with section 272-80 of Schedule 2F to ITAA 1936 and item 22 of Schedule 1 to Trust Loss Act—whichever is applicable—and an interposed entity election specifying a day in the 1997–98 income year in accordance with section 272-85 of Schedule 2F to ITAA 1936 and item 23 of Schedule 1 to Trust Loss Act—whichever is applicable. The trustee wants to make another interposed entity election specifying a day in the 2001–02 income year in accordance with section 272-85 of Schedule 2F to ITAA 1936.

Print code **CL** in the box at this item and the trustee provides details in an *Interposed entity election 2002* of the election it is making specifying a day in the 2001–02 income year. The completed *Interposed entity election 2002* is attached to the Trust tax return.

Example 6

The trustee has not previously made a family trust election specifying an income year before the 2001–02 income year or an interposed entity election specifying a day in an income year before the 2001–02 income year, but the trustee wants to make a family trust election specifying the 2001–02 income year and an interposed entity election specifying a day in the 2001–02 income year in accordance with sections 272-80 and 272-85 of ITAA 1936, respectively.

Print code **HP** in the box at this item and the trustee provides details in a *Family trust election and/or family trust revocation 2002* of the election it is making specifying the 2001–02 income year and an *Interposed entity election 2002* of the election it is making specifying a day in the 2001–02 income year. The completed *Family trust election and/or family trust revocation 2002* and *Interposed entity election 2002* are attached to the Trust tax return.

Example 7

The trustee previously made a family trust election specifying the 1995–96 income year in accordance with section 272-80 of Schedule 2F to ITAA 1936 and item 22 of Schedule 1 to Trust Loss Act and is revoking the family trust election from a day in the 2001–02 income year in accordance with section 272-80(6) to (8) of Schedule 2F to ITAA 1936 and has not made any interposed entity elections.

Print code **BR** in the box at this item. The *Family trust election and/or family trust revocation 2002* is completed and attached to the Trust tax return.

Family trust distribution tax

A consequence of a trust making an interposed entity election or a family trust election is that under section 271-20 of Schedule 2F to ITAA 1936 a special tax—Family trust distribution (FTD) tax—is payable at 48.5 per cent 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 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 ITAA 1936.

Payment of FTD tax is made by mail, using a—*Family trust distribution tax 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 mail. Payment addresses are listed at appendix 16 on page 100.

Type of trust

Print in the box to the right of this item the code from **Table 4** that best describes the type of trust for which the Trust tax return is being lodged. Descriptions of the types of trust listed in **Table 4** are at **Table 5** on page 15.

Table 4

CODE	TYPE
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 trading 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.

Table 5 Description of trusts

Deceased Estate See appendix 10 on page 87.
Fixed trust A trust in which persons have fixed entitlements—as defined in section 272-5 of Schedule 2F to ITAA 1936—to all of the income and capital of the trust at all times during the income year.
Hybrid trust A trust which is not a fixed trust but in which person(s) have fixed entitlements—as defined in section 272-5 of Schedule 2F to ITAA 1936—to income or capital of the trust during the income year.
Discretionary trust A trust which is neither a fixed trust or a hybrid trust and under which person(s) benefit from income or capital of the trust upon the exercise of discretion by person(s), usually the trustee.
Fixed unit trust A fixed trust in which interest in the income and capital of the trust are represented by units.
Public unit trust A fixed unit trust which is a widely held unit trust—as defined in section 272-105 of Schedule 2F to 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 were listed for quotation in the official list of a stock exchange in Australia or elsewhere during the income year.

Note: Where the trust is also an item 1.5 charitable trust in section 50-5 of ITAA 1997, print **X** in the centre box at this item.

Is any tax payable by the trustee?

Trust income is taxed in the hands of the beneficiary who is presently entitled to the net income or in the hands of the trustee. A trustee is liable to pay tax on net income to which no beneficiary is presently entitled. For more information see item 57—Statement of distribution on page 54. To ascertain whether tax is assessable to the trustee on behalf of the beneficiary see appendix 12 on page 95.

If any tax is payable by the trustee, print **Y** for Yes in the box at this item, otherwise print **N** for No.

Request for non-taxable advice

The beneficiary and/or trustee pays tax in relation to the net income of the trust. 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. In the case of any beneficiary with no beneficial interest in the

trust corpus, past losses are required to be met out of corpus.

Where the trustee is not assessed on income and a non-taxable advice is required, attach a request headed *Request for a non-taxable advice* to the Trust tax return. Include the trust name and TFN with the details, sign it and attach it to the tax return. Print **Yes** in the Have you attached any 'other attachments'? box on page 1 of the tax return.

Final tax return

If the trustee does not expect to lodge further tax returns, print *Final* in the box at this item.

Attach a statement headed Final Trust tax return to the Trust tax return showing:

- the reason why further tax returns will not be lodged, and
- the manner of disposal of any assets of the trust if not disclosed elsewhere in the tax return.

Print **Yes** in the Have you attached any 'other attachments'? box on page 1 of the tax return.

Electronic funds transfer

Direct refund

The ATO can deposit a tax refund due to a trustee directly into a bank, credit union or building society account of your choice using electronic funds transfer (EFT)—for example, a tax agent's account.

Note: Care should be taken when completing EFT details as payment of any refund is made to the account specified.

If direct refund is not required

If the trustee does not want to use EFT, or wishes to cancel the existing EFT authority, print **N** for No at Do you want to use EFT for your refund this year?

To use direct refund

Print **Y** for Yes at Do you want to use EFT for your refund this year?

If the trustee received a direct refund last year and the account details are the same there is no need to provide them again.

If the trustee did not use EFT last year or the account details are different complete the following:

- Print the Bank State Branch (BSB) number in the BSB number box. This 6-digit number identifies the financial institution. Do not include spaces, dashes or hyphens in the number.
- Print the account number in the Account number box. You cannot use an account number with more than 9 characters. Do not include spaces in the account number.

- Print the account name, as shown on the account records, in the Account name box. Do not print the account type—for example savings, cheque or mortgage offset. Include spaces between each word and between initials in the account name. Joint accounts are acceptable. The account name must not exceed 32 characters.

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. However, an account for direct debit must contain the trustee's name.

To use direct debit

Trustees can arrange direct debit by using a tax agent that can lodge returns through the ATO Electronic Lodgement Service. They can obtain a Direct debit request (DDR) form from the tax agent and send it to the address shown on the form once it is completed. Allow at least five (5) working days for processing of the initial DDR. Tax agents can transmit payment details up to three (3) working days prior to the due date once the DDR has been processed. Telephone freecall **1800 802 308** for more information.

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 DDR if you want to use direct debit this year.

A DDR remains in force until it is cancelled. Cancellations must be received 5 business days before the payment date.

Note: There is no provision for a direct debit election on the tax return. The DDR is available in the EFT, Direct debit and Direct refund section of the *Tax agent portfolio*. The DDR is also available as part of ELS software packages.

Declaration

The trustee or public officer must sign and date the declaration and all attached documents.

Hours taken to prepare and complete this return

The ATO is 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 to this item 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 and/or putting the tax affairs of your business in order so the information can be handed to your tax agent.

Notes:

- The answer should relate to the time both 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.
- **Note to tax agents:** If you are preparing this tax return on behalf of your client, include your time and a reliable estimate of their time.

Tax agent's declaration

Where the tax agent is a partnership or a company, this declaration is signed in the name of the partnership or company by a person who is registered as a nominee of that partnership or company. Print that person's name at this item also.

Items 1 to 5

1 Description of main business activity

Describe as accurately as possible the business activity from which the partnership or trust derived the **MOST** gross income—for example, beef cattle breeder, vegetable grower, clothing manufacturer, confectionery wholesaler, electrical goods retailer. Do not use general descriptions such as farmer, manufacturer or wholesaler.

Industry code

Show at label **A** the appropriate industry code for the partnership's or trust's main business. The industry code appears on the partnership's or trust's *ABN—Notification of registration*. If the partnership or trust has not applied for an ABN or has not received notification of the ABN, look up the code in the publication *Business industry codes*.

If the main business activity has changed since the partnership or trust received the notification of registration the industry code number is no longer valid. Describe and code the business activity as accurately as possible, using the *Business industry codes*. The industry code is made up of 5 digits. For example, where the industry is 'dairy cattle farming', the code on the tax return is shown as '01300'.

An incorrect code may result in clients not receiving a necessary service or material from the ATO, or could lead to incorrect targeting of audits.

In addition, the ATO provides the Australian Bureau of Statistics (ABS) with aggregated client records for the preparation of national accounts and related economic surveys. Industry codes are an important part of the information the ATO gives to the ABS.

2 Status of business

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

3 Simplified tax system (STS) election

Only complete this item if the partnership or trust is eligible to enter the STS and is electing to do so.

If the partnership or trust wants to enter the STS and is eligible to do so, labels **G**, **H** and **I** must be completed.

If the partnership or trust is not eligible to enter the STS or does not want to enter, leave labels **G**, **H** and **I** blank.

Is the partnership or trust eligible to enter the STS?

The partnership or trust is eligible to be an STS taxpayer for an income year if:

- the partnership or trust carries on a business
- the partnership or trust has an 'STS average turnover' of less than \$1 million. The STS average turnover includes the turnover of any entities that the partnership or trust is 'grouped with', and
- the partnership or trust, together with any entities that the partnership or trust is 'grouped with', has depreciating assets with a total adjustable value of less than \$3 million at the end of the year.

Grouping rules

Special rules called the STS grouping rules will determine who the partnership or trust is 'grouped with'. These rules prevent larger businesses from structuring or restructuring their affairs to take advantage of the STS. For more information on the grouping rules see *Taxation Ruling TR 2002/6* or phone the Tax reform infoline on **13 2478**.

For the year of income, the partnership or trust must satisfy all 3 eligibility tests listed below.

Test 1

Was the partnership or trust carrying on a business during the year?

If the partnership or trust carried on a business at any time during the year of income, it satisfies this test.

Test 2

Is the partnership's or trust's STS average turnover less than \$1 million?

The STS average turnover for an income year is worked out either by looking back to actual turnover in previous years, or looking forward to estimated future turnover. Before working out the partnership's or trust's STS average turnover, you need to know its STS group turnover.

STS group turnover is the value of business supplies the partnership or trust makes in the ordinary course of its business and the value of business supplies any businesses the partnership or trust is grouped with makes in the ordinary course of their business. It does not include any business supplies made between the partnership or trust and businesses it is grouped with.

Look back method

Under the look back method, you generally calculate the STS average turnover using the average of the partnership's or trust's 'STS group turnovers' of any 3 years out of the previous 4 years. If the partnership or trust has been in business for less than 3 years, calculate the partnership's or trust's STS average turnover for the number of years it has been in business (excluding the current year).

If the partnership's or trust's business has operated for only part of one of those years, use a reasonable estimate of what the partnership's or trust's turnover for that year would have been if it were in business for the full year.

Use the following table to assist you with the calculation.

Table 6

INCOME YEAR	STS GROUP TURNOVER
1997-1998	\$
1998-1999	\$
1999-2000	\$
2000-2001	\$
Cross out the largest turnover amount if the partnership or trust has been in business for each of the 4 income years.	
Total of the 3* years	\$
	Divide by 3*
STS average turnover	\$
* or the number of years the partnership or trust has been in business if less than 3 years	

If the STS average turnover is less than \$1 million, the partnership or trust satisfies this test and needs to consider **Test 3**. Otherwise read on.

Look forward method

Under the look forward method, the STS average turnover is calculated using a reasonable estimate of STS group turnovers for the current year and the two following years. Alternatively, you can use the partnership's or trust's actual STS group turnover for the current year and a reasonable estimate of its STS group turnover for each of the following two income years.

If the business has operated for only part of one of those years, you must use a reasonable estimate of what the partnership's or trust's turnover for that year would have been if it was in business for the full year.

Use the following table to assist you with the calculation.

Table 7

INCOME YEAR	STS GROUP TURNOVER
2001–2002	\$
2002–2003	\$
2003–2004	\$
Total	\$
	Divide by 3*
STS average turnover	\$
* or the number of years the partnership or trust expects to be in business if less than 3 years	

If the partnership's or trust's STS average turnover is less than \$1 million it satisfies this test.

Test 3

Did the partnership or trust and any businesses it is grouped with have depreciating assets with a total adjustable value of less than \$3 million at 30 June 2002?

Broadly, the adjustable value of a depreciating asset is its cost less its decline in value since it was first used, or installed ready for use, for any purpose whether business or private. It is the value at the end of the year of income that is relevant.

If the total adjustable value of the partnership's or trust's depreciating assets and those of entities it is grouped with for the income year ended 30 June 2002, is less than \$3 million at this time, the partnership or trust satisfies this test.

Did the partnership or trust satisfy all 3 eligibility tests?

If the partnership or trust did not satisfy all 3 eligibility tests, it is not eligible to enter the STS and labels **G**, **H** and **I** should be left blank.

If the partnership or trust does satisfy all 3 eligibility tests and wants to enter the STS, labels **G**, **H** and **I** must be completed.

Print **Y** for Yes at labels **G** and **H**.

Print **Y** for Yes at label **I** if the partnership or trust is grouped with another entity for any year relevant to the calculation of STS average turnover – otherwise print **N** for No at label **I**.

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

Print **Y** for Yes at label **Q** if, in deriving income, you used the Internet to:

- receive orders for goods and/or services. For example, you received orders by e-mail or a web page form—rather than by conventional post, telephone or facsimile

- receive payment for goods and/or services. For example, you received:
 - credit card or charge card details by e-mail or web page form—rather than by conventional post, telephone or facsimile
 - digital cash
- deliver goods and/or services. For example, you:
 - used e-mail, 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 e-mail, 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 **N** for No at label **Q**, if you only used the Internet to:

- advertise your goods or services
- give support to your customers
- buy your stock
- do your banking on-line.

5 Business income and expenses

The amounts included in business income—labels **C** to **G** and **D** to **H**—and expenses—labels **C** to **N**—are accounting system amounts subject to two exceptions for STS taxpayers.

Note: STS taxpayers should use tax values for their closing stock in calculating their cost of sales to be shown at label **E**, and for their depreciation expenses at label **K**.

The accounting system amounts are shown or included on the business profit and loss statements and form the basis of the calculation of the business net profit or loss. Adjustments to these accounting amounts for tax purposes are made at reconciliation items.

GST is payable by entities that are registered, or required to be registered, for GST. Where GST is payable in relation to income, the GST must be excluded from the income derived. Input tax credit entitlements that arise in relation to outgoings should be excluded from deductions.

Some GST adjustments—occurring for example, where the per centage 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 partnership or trust. Distributions received from other partnerships and trusts are included at item 8—Partnerships and trusts

- Australian sourced income. Foreign source income is included at:
 - item 19—Attributed foreign income, and/or
 - item 20—Other assessable foreign source income.

Income and expenses are divided into 3 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 2 columns.

If the partnership or trust is eligible to enter the STS and has elected to do so at item 3—Simplified tax system (STS) election read on. Otherwise refer to the information for all partnerships and trusts (including STS).

STS taxpayers

STS taxpayers must use the STS accounting method.

This accounting method recognises most income only when received. This type of income is called ordinary income—for example, sales of goods and/or services, professional fees and commissions.

If the partnership or trust is registered or required to be registered for GST, income amounts should exclude GST payable.

An STS taxpayer can claim deductions for the following expenses only when they are paid:

- general deductions—for example, stock purchases, wages and rent of business premises
- tax-related expenses, and
- expenses for repairs.

If the partnership or trust is registered or required to be registered for GST, deductions should exclude input tax credit entitlements.

The STS accounting method does not apply to income or deductions that receive specific treatment in the income tax law—for example, net capital gains, dividends, depreciation expenses, bad debts, and borrowing expenses.

In addition, if another provision of the income tax law apportions or alters the assessability or deductibility of a particular type of ordinary income or general deduction, the timing rule in the specific provision overrides the received or paid rule for STS taxpayers—for example, double wool clips or prepayment of a business expense for a period greater than 12 months. Because of these specific provisions adjustments may need to be made at Reconciliation items.

For more information about the STS accounting method visit the ATO website at www.taxreform.ato.gov.au or phone the Tax Reform Infoline on **13 2478**.

The amounts to include at item 5—Reconciliation items should be based on the STS accounting method where possible. If the partnership's or trust's profit and loss statement does not reflect the STS accounting rules additional adjustments may need to be made at Reconciliation items in order to show the correct amounts for Net income or loss from business.

For more information about these adjustments refer to Reconciliation items on page 26. Worksheet 3—Reconciliation statement on pages 61–62 may be of assistance with the calculations.

In addition to the STS accounting method there are also specific STS depreciation and trading stock rules. For more information on the calculation of closing stock, refer to item 37—Closing stock on page 46 and for information on STS depreciation refer to label **K—Depreciation expenses** on page 22.

All partnerships and trusts (including STS)

Business income

Gross payments where ABN not quoted

Show at labels **C** and/or **D** gross payments made to the partnership or trust that were subject to withholding where an ABN was not quoted. Gross payments include amounts of tax withheld.

Where an amount is shown at labels **C** and/or **D** complete a Non-individual PAYG payment summary schedule and attach the completed schedule to the Partnership or Trust tax return. For instructions on completing this schedule see Schedules on page 2.

Note: Where labels **C** and/or **D** are completed, ensure that the corresponding amount of tax withheld is shown at item 6—Tax withheld where ABN not quoted.

Assessable government industry payments

Generally, government 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 payments of a capital nature. However, payments relating to the commencement or cessation of a business may not be assessable.

Show at labels **E** and/or **F** the following government industry payments:

- bounties
- diesel fuel rebate—see below
- diesel and alternative fuels grant—see below
- employee subsidies
- export incentives grants
- fuel sales grant
- Medicare payments to medical practices
- product stewardship (oil) benefit.

If this amount includes a diesel fuel rebate and/or diesel and alternative fuels grant, print **D** in the CODE box at the right of labels **E** and/or **F**.

Note: For more information on the diesel fuel rebate and diesel and alternative fuel grant, contact the Diesel fuel infoline on **1300 657 162**.

Other business income

Show at labels **G** and/or **H** other business income including gross sales of trading stock, goods taken for own use from stock, gross earnings from services, bad debts recovered, profit on sale of depreciating assets, royalties, insurance recoveries, subsidies, employee contributions for fringe benefits and non-assessable government assistance from all sources.

If this amount is a loss, print **L** in the box at the right of labels **G** and/or **H**.

This amount excludes amounts included at labels **C**, **D**, **E** and **F**.

Note: If you have included an amount for profit on the sale of depreciating assets at labels **G** and/or **H**, see Depreciation expenses on page 22.

Expenses

If the partnership or trust is registered or required to be registered for GST, input tax credit entitlements that arise in relation to outgoings are excluded from deductions. The amounts shown at labels **C** to **N** are accounting system amounts. Adjustments to these accounting amounts for tax purposes are made at label **B—Expense reconciliation adjustments**.

If any expenses have been prepaid, the new prepayment provisions may affect the amount that can be claimed as a deduction. Where the amounts shown under any expense label at item 5 differ from the amount allowable as deductions in the 2001–02 income year. Adjustment should be made at label **B—Expense reconciliation adjustments**. For more information refer to the publication *Deductions for prepaid expenses*.

Contractor, sub-contractor and commission expenses

Show at label **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—for example, advertising
- service fees—for example, plant service
- management fees
- consultant fees.

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

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

Record retention—Keep a record of the following:

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

Superannuation expenses

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

Employers are entitled to a deduction for 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 eligible employees or, to provide benefits to the employee's dependants on the employee's death.

Superannuation benefits mean individual personal benefits, pensions or retiring allowances.

A deduction is allowable 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 an employer needs to provide a minimum level of superannuation for eligible employees or pay a tax called the superannuation guarantee charge to the Commissioner. The superannuation guarantee charge is not a superannuation contribution and is not tax deductible.

Contributions paid by an employer for eligible employees to a non-complying superannuation fund are fringe benefits—other than where the contributions are made for an exempt visitor—and may be subject to tax under the *Fringe Benefits Tax Assessment Act 1986*.

The amount of contributions that can be claimed as a deduction by an employer contributing to a resident complying superannuation fund in respect of eligible employees is limited by the age of each relevant employee.

For the 2001–02 income year the age based limits are as follows:

Table 8 Age based limits

AGE IN YEARS	DEDUCTION LIMIT
under 35	\$11 912
35 to 49	\$33 087
50 and over	\$82 054

The employee's age limit is determined at the end of the day on which, the last contribution for the income year was made by the employer or an associate of the employer for the benefit of the employee.

Employer contributions paid to the Superannuation Holding Accounts Reserve (SHAR) are allowable deductions up to a limit of \$1200 per employee.

Cost of sales

STS taxpayers

If the partnership or trust is eligible to enter the STS and has elected to do so at item 3—Simplified tax system election it will need to know the value of its closing stock in order to calculate cost of sales. STS taxpayers only need to account for changes in the value of their trading stock in limited circumstances. For information about how to calculate the closing stock value, refer to item 37—Closing stock on page 46.

All partnerships and trusts (including STS)

Show at label **E** 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—print **L** in the box to 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 7010 of ITAA 1997 refer to *Taxation Ruling TR 98/7*.

Bad debts

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

Note:

- Show recovery of bad debts at labels **G** and/or **H—Other business income**
- A deduction for bad debts is not allowable unless the debt which 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 partnership or trust carrying on that business
- **T** Under the trust loss provisions of Schedule 2F to ITAA 1936, rules effective from 20 August 1996 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 9 on page 86

- Do not include accounting provisions for doubtful debts at label **F**. These are shown at label **N—All other expenses** then added back at label **B—Expense reconciliation adjustments**. To calculate the amount of the expense reconciliation adjustment see Worksheet 3—Reconciliation statement on pages 61–62
- 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 refer to *Taxation Ruling TR 92/18*.

A deduction can be claimed for:

- partial debt write-offs where only part of a debt is bad and is written off. A deduction may be claimed for the amount written off, and
- losses incurred in debt-for-equity swaps for debt written off after 26 February 1992. A deduction may be allowable in respect of a debt-for-equity swap by the partnership or trust, if the provisions of sections 63E to 63F of ITAA 1936 are satisfied. The deduction is 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 where the equity is not listed, the net asset backing of the equity.

Where the partnership or 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.

Deductions for bad debts may also be reduced by the commercial debt forgiveness provisions—see appendix 4 on page 71.

Record retention—If the partnership or 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, and
- the year that the amount was returned as income.

Lease expenses

Show at label **G** the expenditure incurred through both financial and operating leases on leasing assets—motor vehicles, depreciating assets such as plant, etc. Do not include the cost of leasing real estate.

Expenses incurred under a hire purchase agreement are not lease expenses. Such expenses are referred to in appendix 7—Uniform capital allowances on page 66.

Note: In some circumstances lease expenses may be debt deductions for the purposes of the new thin capitalisation rules. For information on thin capitalisation, see appendix 3 on page 70.

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 Expense reconciliation adjustments.

Record retention—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:
 - to whom the payments were made
 - 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, and
- any documentation on or relating to the lease of the items.

Rent expenses

Show at label **H** the expenditure incurred, as a tenant, on the rental of land and buildings, which are used in the production of income.

Total interest expenses

Show at label **I** 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.

Do not include interest expenses claimable against rental income. These expenses are shown at item 9, label **G**—**Interest deductions**.

Note:

- An amount of tax—withholding tax—is generally withheld from interest paid or payable to non-residents and to overseas branches of residents and must be remitted to the ATO
- 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 on page 70. The disallowed amount is to be included at label **B**—**Expense reconciliation adjustments**
- **T** Distributions from a non-share equity interest are not deductible
- Interest may not be deductible in certain situations—for example, if it has been incurred for private or domestic purposes.

Show the amount of interest not allowable at label **B**—**Expense reconciliation adjustments**.

Record retention—If interest is paid to a non resident or to a branch of a resident, keep a record of the following:

- Name and address of recipient(s)
- 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 label **J** the royalty expenses paid for the income year. Include royalties paid to residents and non-residents.

Note: An amount of tax—withholding tax—is generally withheld from royalties paid or payable to non-residents and must be remitted to the ATO. For more information phone the ATO infoline for investment and royalty withholding taxes on **13 2867**.

Record retention—Keep a record of the following:

- name and address of recipient(s)
- 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 on page 70.

Depreciation expenses

If the partnership or trust is eligible to enter the STS and has elected to do so at item 3—Simplified tax system election refer to STS taxpayers below. Otherwise refer to the information for Non-STS taxpayers on page 25.

STS taxpayers

Show at label **K** the total depreciation deductions being claimed by the partnership or trust under the STS depreciation (capital allowance) rules and the Uniform capital allowance (UCA) rules. You do **NOT** need to complete a Capital allowances schedule.

STS taxpayers can claim an immediate deduction for most depreciating assets costing less than \$1000 (excluding input tax credit entitlements) and pool most of their other depreciating assets. There are 2 STS pools:

- a general STS pool for depreciating assets with an effective life of less than 25 years, and
- a long life STS pool for depreciating assets with an effective life of 25 years or more.

Some depreciating assets are excluded from the STS rules but a deduction may be available under the UCA rules. For example, horticultural plants including grapevines are excluded from the STS rules and are deducted under special UCA provisions—see appendix 7 on page 78.

For certain depreciating assets used by an STS taxpayer in the course of carrying on a business of primary production, a taxpayer can choose whether to use the STS 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 refer to appendix 7 on page 78.

For more information about the STS depreciation rules visit the ATO website at www.taxreform.ato.gov.au or phone the Tax reform infoline on 13 2478.

Calculating depreciation deductions

Only use steps 1 to 5 to calculate the depreciation deductions if the partnership or trust is eligible to enter the STS and has elected to do so at Item 3—Simplified tax system.

If the profit and loss statement of the partnership or trust provides the amounts to complete **Table 10**

Depreciation deductions on page 24 write these amounts in the table. Otherwise, use steps 1 to 5 below to calculate the depreciation deductions.

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

Table 9 Explanation of terms

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 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 for 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.
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.

Step 1 Low cost assets

For each depreciating asset:

- the partnership or trust started to hold this income year and used (or installed ready for use) for a taxable purpose such as for producing assessable income
- whose cost at the end of this year is less than \$1000 (excluding input tax credit entitlements), and
- which qualifies for a deduction under the STS depreciation rules

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

Asset's adjustable value multiplied by its taxable purpose proportion

The adjustable value of an asset is its cost less its decline in value since it was first used (or installed ready for use) for any purpose, including a private purpose. 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 partnership or trust solely for private purposes. For example, a tool set bought on 1 December 2001 at a cost of \$800 (excluding input tax credit entitlements) and used for producing assessable income from that date at an estimated 70 per cent of the time, the immediate deduction would be $\$800 \times 70\% = \560 .

Add up these results and write the total at (a) in **Table 10**.

Do **NOT** include in this calculation, amounts for depreciating assets the partnership or trust started to hold prior to entering the STS and that cost less than \$1000. These assets are allocated to the general STS pool (see step 2).

Step 2 STS pool deductions

To calculate the deductions for both the general and long life STS pools you must first calculate the opening pool balance of each pool.

For the first year the partnership or trust enters the STS, allocate each depreciating asset the partnership or trust holds at the start of the income year to the appropriate pool according to the asset's effective life. 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 per cent for an income producing purpose, only \$5000 will be added to the pool.

The opening pool balance for each STS pool is calculated by adding the value of all depreciating assets allocated to the relevant pool.

Calculate the deduction for each STS pool as follows:

General STS pool deduction: Opening pool balance (\$) \times 30%
Long life STS pool deduction: Opening pool balance (\$) \times 5%

Where necessary make a reasonable apportionment for each STS pool deduction between primary production and non-primary production activities.

Write the result of the General STS pool deduction at (b) in **Table 10**.

Write the result of the Long life STS pool deduction at (c) in **Table 10**.

Note: The taxpayer can choose not to allocate an asset to the long life STS pool if the asset was first used, or installed ready for use, for a taxable purpose before 1 July 2001.

If either pool balance (after taking into account additions and disposals but before calculating the deductions in steps 2 & 3) is below \$1000, calculate the deduction for the pool using step 5(b).

Step 3 Depreciating assets first used for a taxable purpose during the income year and improvements made to assets already allocated to a pool

Calculate the deduction at half the relevant pool rate for:

- depreciating assets that the partnership or trust first used or installed ready for use for a taxable purpose during the year, and
- improvements made during the year to assets already allocated to an STS 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 per cent (General STS pool assets) or 2.5 per cent (Long life pool assets), plus
- the taxable purpose proportion of the cost of the improvement x 15 per cent (General STS pool assets) or 2.5 per cent (Long life pool assets).

Write the total deduction for general STS pool assets at (d) in **Table 10**.

Write the total deduction for long life STS pool assets at (e) in **Table 10**.

Note: If either pool balance (after taking into account additions and disposals but before calculating the deductions in steps 2 and 3) is below \$1000, calculate the deduction for these assets using step 5(b).

Step 4 Other depreciating assets

Calculate the deduction for the decline in value of all other depreciating assets that are not included in steps 1 to 3. For more information, see appendix 7 and the *Guide to depreciating assets*. Write the total deduction at (f) in **Table 10**.

Step 5 Disposal of depreciating assets

(a) Low cost assets

If the partnership or trust has disposed of a low-cost asset, for which it has claimed an immediate deduction in step 1, include the taxable purpose proportion of the termination value at item 5—Reconciliation items. 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. For example, for a low-cost asset used only 50 per cent per cent 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 STS pools

Where the partnership or trust disposes of depreciating assets that have been allocated to either the general or long life STS pools, 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 per cent for an income producing purpose which was sold for \$3000 (excluding GST), only \$1500 will be deducted from the closing pool balance.

If the balance of a pool (after taking into account any additions and disposals but before calculating the deductions in steps 2 and 3) is below \$1000, the partnership or trust can claim an immediate deduction for this amount. Write this deduction against the appropriate pool at (b) or (c) in **Table 10**.

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

(c) Other depreciating assets

Refer to the publication *Guide to depreciating assets* for information on how to calculate any balancing adjustment amounts on the disposal of other depreciating assets. Balancing adjustment amounts are included at item 5—Reconciliation items. See Worksheet 3—Reconciliation statement at page 61–62.

Table 10 Depreciation deductions (STS taxpayers only)

	Primary production (\$)	Non-primary production (\$)	Total (\$)
Low cost assets			(a)
General pool			(b)
Long life pool			(c)
General pool (1/2 rate)			(d)
Long life pool (1/2 rate)			(e)
Other assets			(f)
Depreciation expenses [add (a) to (f)]			(g)
Transfer the amount at (g) to item 5, label K—Depreciation expenses .			
Transfer the amount at (a) to item 54, label A—STS depreciation deduction .			
Transfer the total of the amounts at (b) & (d) to item 54, label B—General pool assets .			
Transfer the total of the amounts at (c) & (e) to item 54, label C—Long life pool assets .			

Closing pool balance

The closing balance of each STS pool for an income year is the sum of:

- 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 the cost of any improvements made to 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 5(b)), less
- the STS 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 the cost of improvements made to the pooled assets during the year (see step 3).

If the closing pool balance is less than zero see step 5(b).

The closing pool balance for this year becomes the opening pool balance for the 2002-03 income year except where an adjustment is made to reflect the changed business use of a pooled asset.

The opening pool balance is needed to work out the pool deduction next year.

Non-STS taxpayers

Show at label **K—Depreciation expenses** the book depreciation expenses for depreciating assets. This amount does not include:

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

The deduction for the decline in value of depreciating assets may differ from accounting or book depreciation. The deduction for the decline in value of depreciating assets and deductible balancing adjustment amounts are reconciled with accounting depreciation at label **B—Expense reconciliation adjustments**. The reconciliation for assessable balancing adjustment amounts on depreciating assets is shown at label **A—Income reconciliation adjustments**.

For more information on balancing adjustment amounts and deductions for the decline in value of depreciating assets refer to the *Guide to depreciating assets*.

Note: If there is an amount greater than \$1000 at label **K—Depreciation expenses** complete and attach a Capital allowances schedule unless the partnership or trust is eligible to enter the STS and has elected to do so at item 3—Simplified tax system (STS) election. For more information see the *Capital allowances schedule instructions*.

Motor vehicle expenses

Show at label **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:

- label **G—Lease expenses**
- label **I—Interest expenses**
- label **K—Depreciation expenses**.

P Special substantiation and calculation rules, in respect of car expenses, apply to partnerships in which at least one partner is an individual.

Under these rules, motor vehicle expenses can be claimed using one of 4 methods where the expense is for a motor car, station wagon, panel van, utility truck or other road vehicle designed to carry a load less than one tonne or fewer than 9 passengers. For an explanation of these methods, refer to item D1 of *TaxPack 2002*.

Print **N** in the CODE box where there is an amount shown at label **L** and this amount relates to a:

- Motor cycle
- Taxi taken on hire
- Road vehicle designed to carry a load of one tonne or more, or 9 or more passengers.

In all other cases print in the CODE box the code from **Table 11** that determines the method used to claim motor vehicle expenses applicable to the partnership.

Where the partnership has more than one vehicle and uses a different method to claim motor vehicle expenses for each vehicle, use the code applicable to the largest claim.

Table 11

CODE	METHOD USED
S	Cents per km
T	12% of original price
O	1/3 of actual expenses
B	Logbook

Any adjustment for tax purposes to the motor vehicle expenses included in the profit and loss statement is shown at label **B—Expense reconciliation adjustments**. To calculate the amount of the expense reconciliation adjustment see *Worksheet 3—Reconciliation statement* on pages 61-62.

For more information about the retention of records refer to *TaxPack 2002*.

Repairs and maintenance

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

Note: Any item of a capital nature shown at label **M** is written back at label **B—Expense reconciliation adjustments**.

Repairs

Provided 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 for that purpose. Expenditure on repairs to property used partially for business or income producing purposes—for example, where the property is also used for private purposes, or in the production of exempt income—is deductible only to an extent that is reasonable in the circumstances.

Where 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 refer to *Taxation Ruling TR 97/23*.

Record retention—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 label **N** the total of all other business expenses for the income year which have not already been included at labels **C** to **M**—for example, travel expenses.

Note:

- Capital and other non deductible items included at label **N** are written back at label **B—Expense reconciliation adjustments**
- If you have included an amount for a loss on the sale of a depreciating asset at label **N—All other expenses**, refer to Depreciation expenses on page 22
- Calculation of some deductions may be affected by the commercial debt forgiveness provisions—refer to appendix 4—Commercial debt forgiveness on page 71
- Expenses listed here that are costs associated with borrowing and servicing debt may not be allowable under the thin capitalisation rules. For more information refer to appendix 3—Thin capitalisation page 70. The disallowed amount is to be included at label **B—Expense reconciliation adjustments**.

Total expenses

Show at label **O** the total of all expense items shown at labels **C** to **N**.

If there is a negative amount at label **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 net income or loss for purposes of the income tax return.

If the partnership or 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.

If the partnership or trust is eligible to enter the STS and has elected to do so at item 3, see below for specific reconciliation adjustments for STS taxpayers. For more information on reconciliation adjustments that may apply to both STS and non-STS taxpayers, see section regarding all partnerships and trusts on page 27.

STS taxpayers

STS taxpayers must use the STS accounting method.

This accounting method recognises most income when **received** and most expenses only when **paid**. More information about the STS accounting method can be found on page 19.

Adjustments will need to be made at item 5—Reconciliation items if:

- the amounts shown at the income and expense sections of item 5 are not based on the STS accounting method, or
- the accounting method used by the partnership or trust does not take into account adjustments necessary when first entering the STS, or
- the partnership or trust has disposed of depreciating assets during the year.

These adjustments are explained in more detail below. Worksheet 3—Reconciliation statement on pages 61–62 will assist with the calculations.

Trade debtors and creditors as at 30 June 2002

If the partnership or trust has included at any income labels at item 5, amounts of ordinary income that have been derived but not received in 2001–02, the portion not received is not assessable under the STS rules in this year. This portion forms part of label **A—Income reconciliation adjustments**.

If the partnership or trust has included at any expense labels at item 5, amounts of general deductions, repairs and tax-related expenses that have been incurred but not paid in 2001–02, the portion not paid is not deductible under the STS rules in this year. This portion forms part of label **B—Expense reconciliation adjustments**.

Adjustments when first entering the STS

If the partnership or trust has included at any income labels at item 5, amounts of ordinary income that were included or should have been included in a previous

year's assessable income, the portion derived and included in assessable income in a previous year is not assessable again under the STS rules—for example debtors as at 30 June 2001.

This portion forms part of label **A—Income reconciliation adjustments**.

If the partnership or trust has included at any expense labels at item 5, amounts for general deductions including repairs and tax-related expenses that were deducted or should have been deducted in a previous year, the portion incurred and deducted in a previous year is not deducted again under the STS rules—for example creditors as at 30 June 2001.

This portion forms part of label **B—Expense reconciliation adjustments**.

Disposal of depreciating assets

If the partnership or trust has disposed of depreciating assets during the income year, the following amounts (if any) form part of label **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, and
- if the closing pool balance of the STS pool is less than zero, the amount below zero, and
- assessable balancing adjustment amounts on the disposal of depreciating assets not subject to the STS depreciation rules.

Any deductible balancing adjustment amounts on the disposal of depreciating assets not subject to the STS depreciation rules, form part of label **B—Expense reconciliation adjustments**.

Prepaid expenses

STS taxpayers are entitled to an immediate deduction for prepaid expenses where 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. Where the eligible service period is more than 12 months, or ends after the next year of income, the deduction for the expenditure must be apportioned over the eligible service period or 10 years, whichever is less. The immediate deduction under this 12-month rule does not apply to expenditure incurred under a tax shelter agreement except where it is for certain expenditure incurred under a plantation forestry managed agreement. For more information, refer to the publication *Deductions for prepaid expenses*. Where expense labels include prepaid expenses that differ from the amounts allowable as deductions in the 2001-02 income year, include a reconciliation adjustment at label **B—Expense reconciliation adjustments**.

All partnerships and trusts (including STS)

Income reconciliation adjustments

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

- *Income add backs*—Amounts not shown in the accounts, but which are assessable income, including timing adjustments. These items increase the total amount shown at label **A**.

Examples include:

- Any excess of the tax value of closing stock over the tax value of opening stock (Non-STS taxpayers)—refer to Note below
- Assessable balancing adjustment amounts on depreciating assets—refer to appendix 7—Uniform capital allowances on page 78
- Limited recourse debt amounts—refer to appendix 7.
- *Income subtractions*—Income shown in the accounts, which is not assessable income, including timing adjustments. These items reduce the total amount shown at label **A**.

Examples include:

- Exempt income
- Profit on the sale of a depreciating asset—refer to appendix 7 on page 78
- Personal services income included in the assessable income of an individual (attributed amount)—refer to item 27—Personal services income on page 45.

Where the *Income subtractions* exceed the *Income add backs*, the total is a negative amount. Print **L** in the box to the right of the amounts shown at label **A**.

Note: Trading stock on hand (Non-STS taxpayers)

Reconciliation adjustments will be required where the tax values of trading stock on hand have not been used in calculating the amount shown at label **E—Cost of sales**. 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. Where accounting values for trading stock on hand have been used in calculating the amount shown at label **E—Cost of sales**, further reconciliation adjustments are needed to take out those amounts.

For more information on the tax value of trading stock, refer to item 35—Opening stock and item 37—Closing stock.

To calculate the amount of the Income reconciliation adjustments, see Worksheet 3—Reconciliation statement on pages 61-62.

Expense reconciliation adjustments

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

- *Expense add backs*—Expenses shown in the accounts to the extent they are not tax deductible, including timing adjustments. These items increase the total amount shown at label **B**. Examples include:
 - Additions to provisions and reserves
 - Capital expenditure
 - Certain expenses relating to personal services income not gained in the course of conducting a personal services business—refer to item 27—Personal services income
 - Debt deductions denied by the thin capitalisation provisions—refer to appendix 3 on page 70
 - Depreciation expenses (non-STS taxpayers)
 - Expenses relating to exempt income
 - Hire purchase agreements - payments—refer to appendix 7 on page 78
 - Income tax expense
 - Loss on the sale of a depreciating asset—refer to appendix 7
 - Luxury car leases - payments—refer to appendix 7
 - Part of prepaid expenses not deductible this year—refer to Note below
 - Penalties and fines.
- *Expense subtractions*—Amounts not shown as expenses in the accounts but which are tax deductible, including timing adjustments. These items reduce the total amount shown at label **B**. Examples include:
 - Any excess of the tax value of opening stock over the tax value of closing stock (Non-STS taxpayers)—refer to Note on page 27
 - Deductible balancing adjustment amounts on depreciating assets—refer to appendix 7
 - Deduction for decline in value of depreciating assets (Non-STS taxpayers)—refer to appendix 7
 - Deduction for environmental protection expenses—refer to appendix 7
 - Deduction for project pool—refer to appendix 7
 - **T** Electricity connections and telephone lines—refer to appendix 7
 - **T** Grapevines & horticultural plants—refer to appendix 7
 - Hire purchase agreements - interest component—refer to appendix 7
 - **T** Landcare operations and deduction for decline in value of water facility—refer to appendix 7
 - Luxury car leases - accrual amount—refer to appendix 7

- Part of prepaid expenses deductible this year, but not shown in accounts—refer to the note below
- Section 40-880 deduction—refer to appendix 7.

Note: Prepaid expenses (Non-STS taxpayers)

The partnership's or trust's total deduction for prepaid expenses in the 2001–02 income year may comprise three components:

- the part of prepaid expenses incurred in the 2001–02 income year which relates to that income year
- the part of prepaid expenses incurred in the 2001–02 income year that relates to a later year, but which is deductible in the 2001–02 income year under the transitional rules, and
- that part of the 2000–01 or earlier income year's expense that was not deductible in that income year, but which is deductible in the 2001–02 income year under the prepayment rules.

For more information refer to the publication *Deductions for prepaid expenses*.

Where expense labels include prepaid expenses that differ from the amounts allowable as deductions in the 2001–02 income year, make a reconciliation adjustment at label **B—Expense reconciliation adjustments**.

There is no adjustment for drought investment allowance at label **B—Expense reconciliation adjustments**, it is shown at label **U—Drought investment allowance**.

Where the *Expense subtractions* exceed the *Expense add backs*, the total is a negative amount. Print **L** in the box to the right of the amount.

To calculate the amount of the Expense reconciliation adjustments, see Worksheet 3—Reconciliation statement on pages 61–62.

Drought investment allowance

Show at label **U** any claim for drought investment allowance (DIA).

The drought investment allowance provides for a one-off deduction of 10 per cent of capital expenditure incurred in buying or building new items of drought mitigation property.

Drought mitigation property is:

- a fodder storage facility
- a water storage facility
- a water transport facility
- minimum tillage equipment.

For information on what items fall into any of these categories and in what circumstances, ring the Small Business Infoline on **13 2866**.

The partnership or trust can claim the investment allowance deduction if the expenditure was incurred after 23 March 1995 and before 1 July 2000. If the item of drought mitigation property is built, construction must start between those dates. The item must be new and:

- must cost \$3000 or more
- must be used wholly and exclusively in Australia for producing assessable primary production income other than by leasing it, letting it on hire purchase or granting rights to other persons to use it
- must be first used or installed ready for use before 1 July 2001
- must be retained for at least 12 months and not be leased, or the right to use it transferred, to another person within this time.

The deduction is limited to \$5000 in any year and, in many cases, is additional to any other deduction available in relation to the expenditure.

The deduction can be claimed in the year the item is first used or installed ready for use. If the partnership or trust has an early balancing substituted accounting period, any deduction in relation to new items of qualifying property first used or installed ready for use in that part of the substituted accounting period which occurs before 1 July 2001 is shown at this label.

The allowance will be lost in some circumstances such as where the property is disposed of, used outside Australia, etc.

Any recoupment of the expenditure would be assessable income.

If a primary production partnership acquires an item of drought mitigation property and the partnership has taken the DIA into account in determining the partnership's net income or loss, special provisions apply in respect of the disposal of a partner's interest. Refer to section 656 of ITAA 1936.

Net income or loss from business

The net income or loss from business is total business income less total expenses incurred in producing that income, adjusted by any reconciliation items.

Show the net income or loss from business income at:

- label **Q** for primary production, and/or
- label **R** for non-primary production

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

Show at label **S**:

- Total business income, minus
- label **O—Total expenses**, plus or minus
- label **A—Income reconciliation adjustments** and label **B—Expense reconciliation adjustments**, minus
- label **U—Drought investment allowance**

The sum of the Net income or loss from business at:

- label **Q** for primary production, and
- label **R** for non-primary production

equals the amount shown at label **S**.

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

6 Tax withheld where ABN not quoted

Show at label **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. For instructions on completing the schedule see Schedules on page 2.

Do not include any share of amounts withheld that is a distribution from another partnership or trust where an ABN was not quoted. This is shown at item 8, label **C—Share of credit for tax withheld where ABN not quoted**.

Note: Where an amount of tax withheld is shown at label **T** the corresponding gross income must be declared at item 5, labels **C** and/or **D—Gross payments where ABN not quoted**.

7 Credit for interest on early payments —amount of interest

Show at label **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 which may attract early payment interest are payments of:

- income tax (Including Medicare levy)
- an income tax penalty
- interest under section 170AA of ITAA 1936 in relation to an amended assessment for the 1999–2000 or earlier income year
- late lodgment penalties under section 163B of ITAA 1936 in relation to the 1999–2000 or earlier income year.

Early payment interest is not payable on:

- any component of the payment that exceeds the amount due and payable.
- amounts withheld under arrangements for collection of tax at the time of payment, such as PAYG withholding amounts from interest, dividends and royalties and amounts withheld where an ABN was not supplied
- PAYG instalments
- amounts for which there is an entitlement to a credit, refund or remission—in these cases interest on overpayment may apply
- amounts paid less than 14 days before the due date.

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, and
- 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.

Any amount paid early which is refunded before the date it becomes due and payable, does not accrue early payment interest for the period after the date it is refunded.

Date of payment is:

- the date shown on the receipt if payment was made to a post office
- the date payment is mailed to the ATO plus 3 days
- the date shown on the taxpayer's bank statement where payment is made through direct debit—that is, electronic funds transfer (EFT).

The rates applicable in the 2001–02 income year for interest on early payments are the weighted average yield for the 13 Week Treasury Note applicable for the relevant quarters—refer to section 214A of ITAA 1936.

Table 12

Rates applicable for 2001–02 income year:

QUARTER	INTEREST RATE (P.A.)
Jul – Sep 2001	4.89%
Oct – Dec 2001	4.95%
Jan – Mar 2002	4.28%
Apr – Jun 2002	4.31%

Note: 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 partnership's or trust's income from another partnership includes income or a loss which the partnership or trust received, was entitled to receive or was entitled to deduct in respect of that other partnership.

The partnership's or trust's income from another trust includes income the partnership or trust received or was entitled to receive as a beneficiary under a will, settlement, deed of gift or other instrument of trust.

Copy the details from any statements received from the other partnerships and trusts to worksheet 4—Distribution of income from other partnerships and trusts on page 63. Distributions from another partnership or trust include the share of any:

- TFN amounts withheld from interest, dividends and unit trust distributions
- amounts withheld where an ABN was not quoted.

This is the partnership's or trust's record if the ATO needs more details later.

Note:

- Income distributions from partnerships and trusts are not to include foreign income or a capital gain at item 8. Foreign income is shown at
 - item 19—Attributed foreign income, and
 - item 20—Other assessable foreign source income.
- **T** net capital gains (including foreign capital gains) are shown at item 17—Net capital gain. Dividends received from listed investment companies are not distributions of net capital gains. For more information refer to the publication *Guide to capital gains tax*.
- **P** a partnership does not own assets for CGT purposes. A partnership asset is owned by the partners in the proportion to which they have agreed. If a CGT event happens to a partnership asset during the year, or the partnership received a share of a capital gain from a trust, each partner must include their share of the capital gain or capital loss in their own tax return. For more information on how a partner returns their share of a capital gain or capital loss refer to the publication *Guide to capital gains tax*.
- If Family trust distribution (FTD) tax has been paid on a conferral of present entitlement to, or distribution of, income or capital of another partnership or trust which would otherwise be assessable to the partnership or trust, the income or capital is excluded from the partnership's or trust's assessable income under section 271-105 of Schedule 2F to ITAA 1936. Any losses or outgoings incurred in deriving an amount which is excluded from assessable income under section 271-105 are not deductible and a credit or tax offset cannot be claimed for any imputation credit attached to a dividend which is exempt income by reason of section 271-105. For more information about the circumstances in which FTD tax is payable see pages 9 and 14.
- Where the trustee of a closely held trust is subject to ultimate beneficiary non-disclosure tax on a share of net income of the closely held trust, the trustee beneficiary (and as a result any partnership or other trust to which that share of net income may pass or ultimate beneficiary) is not required to include that share of net income in their own assessable income.

Primary production**Distribution from partnerships**

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

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

Distribution from trusts

Show at label **Z** the amount of primary production income distribution from other trusts. Include income to which the partnership or trust became presently entitled in the income year but has not yet received. If this amount is a loss, print **L** in the box to the right of the amount. A loss can be shown at label **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, print in the box to the right of label **Z** the code from **Table 4** on page 14 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 distribution in labels A and Z

Show at label **S** the partnership's or trust's own deductions for primary production distributions from other partnerships or trusts.

If any expenses have been prepaid, the amount that can be claimed at label **S** may be affected by the prepayment provisions. For more information refer to the publication *Deductions for prepaid expenses*.

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 on page 70. The disallowed amount reduces the amount that would otherwise go in label **S**.

Net primary production distribution

Show at this item the net result of partnership and/or trust distributions of primary production income.

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

Non-primary production**Distribution from partnerships, less foreign income**

Show at label **B** the amount of non-primary production income or loss distribution from other partnerships. If this amount is a loss, print **L** in the box to the right of the amount. Where the distribution includes franked dividends show the grossed up amount—that is, the total of the imputation credit and the dividend. The imputation credit is also included at label **D—Share of imputation credit from franked dividends**.

Note: If the partnership or trust received a distribution from another partnership and that other partnership advised that it claimed a deduction in respect of a listed investment company (LIC) capital gain amount, the partnership or trust is required to include its share of the deduction allowed to the other partnership at item 12—Other Australian income

Distribution from trusts, less net capital gains and foreign income

Show at label **R** the amount of non-primary production income distributions from other trusts. Where the distribution includes franked dividends show the grossed up amount—that is, the total of the imputation credit and the dividend. The imputation credit is also included at label **D—Share of imputation credit from franked dividends**.

Include income to which the partnership or trust became presently entitled in the income year but has not yet received. If this amount is a loss, print **L** in the box to the right of the amount. A loss is shown at label **R** only if the amount is a component of an overall distribution of net income from the same trust.

If this amount is not a loss, print in the box to the right of label **R** the code from **Table 4** on page 14 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.

Note: If the partnership or trust received a distribution from another trust and that other trust advised that it claimed a deduction in respect of a listed investment company (LIC) capital gains amount, the partnership or trust is required to include its share of the deduction allowed to the other trust at item 12—Other Australian income.

Deductions relating to distribution in labels B and R

Show at label **T** the partnership's or trust's own deductions in relation to non-primary production distributions from other partnerships or trusts.

If any expenses have been prepaid, the amount that can be claimed at label **T** may be affected by the prepayment provisions. For more information refer to the publication *Deductions for prepaid expenses*.

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 on page 70. The disallowed amount reduces the amount that would otherwise go in label **T**.

Note: If family trust distribution (FTD) tax has been paid on income or capital of another partnership or trust to

which the partnership or trust is presently entitled or which has been distributed to the partnership or trust, the income or capital is excluded from the assessable income of the partnership or trust under section 271-105 of Schedule 2F to ITAA 1936 and is not shown at labels **A**, **Z**, **B** or **R**. Any losses or outgoings incurred in deriving an amount which is excluded from assessable income under section 271-105 are not deductible and cannot be claimed at labels **S** or **T**. For more information about the circumstances in which FTD tax is payable see page 9 for partnerships and page 14 for trusts.

Where the trustee of a closely held trust is subject to ultimate beneficiary non-disclosure tax on a share of net income of the closely held trust, the trustee beneficiary (and as a result any partnership or other trust to which that share of net income may pass or ultimate beneficiary) is not required to include that share of net income in their own assessable income and is not shown at labels **A**, **Z**, **B** or **R**. Any losses or outgoings incurred in deriving an amount which is excluded from assessable income are not deductible and cannot be claimed at labels **S** or **T**.

Net non-primary production distribution

Show at this item the net result of partnership and/or trust distributions of non-primary production income.

Print the total amount in the box to the right of Net non-primary production distribution. If this amount is a loss, print **L** in the box to 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 labels **A**, **Z**, **B** or **R** includes any share of amounts withheld where an ABN was not quoted, show the share of that credit at label **C**.

Share of imputation credit from franked dividends

Show at label **D** the partnership's or trust's share of any imputation credits received through another partnership or trust.

Show imputation credits received directly from a paying company at item 11, label **M—Imputation credit**.

Note: Do not show imputation credits relating to a dividend received through another partnership or trust where:

- the holding period rule and related payments rule were not satisfied in relation to the dividend. For more information refer to appendix 1 on page 68
- FTD tax has been paid on the dividend paid or credited by a company which has made an interposed entity election. The dividend is excluded from assessable income under section 271-105 of Schedule 2F to ITAA 1936. A franking credit or tax offset cannot

be claimed for any imputation credit attached to that dividend. For more information about the circumstances in which FTD tax is payable refer to pages 9 and 14, or

- the trustee of a closely held trust is subject to UBNT on a share of net income of the closely held trust. The trustee beneficiary (and as a result any company or ultimate beneficiary) is not required to include that share of net income in their own assessable income and a credit or tax offset cannot be claimed for any imputation credit attached to that dividend.

Share of credit for TFN amounts withheld from interest and dividends

Unless the partnership or trust claimed an exemption or lodged a TFN with the investment body, amounts may be withheld from interest, dividends and unit trust distributions. These amounts withheld from interest, dividends and unit trust distributions are called TFN amounts withheld. The withholding is currently at a rate of 48.5 per cent of the payment made.

Show at label **E** the share of the net amount of TFN amounts withheld on interest, dividends and unit trust distributions relating to a distribution from another partnership or trust. Credits for TFN amounts withheld are allowed in the assessments of the partners, beneficiaries or trustees.

9 Rent

Gross rent

Note for STS taxpayers: If the partnership or trust is eligible to enter the STS and has elected to do so at item 3—Simplified tax system (STS) election, gross rent at label **F**, interest deductions at label **G**, and general deductions and repairs included at label **H** should be based on the STS accounting method. For more information, refer to page 19.

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

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

Rent from foreign sources is shown at item 20—Other assessable foreign source income.

Lease premiums

P Lease premiums taxable as a capital gain are shown in each partner's own tax return. For more information about capital gains generally, refer to the publication *Guide to capital gains tax*.

T Lease premiums taxable as capital gains are shown at item 18—Capital gains.

Interest deductions

Where 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 on page 70. The disallowed amount reduces the amount that would otherwise go in label **G**.

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

Capital works deductions

Show at label **X** the total capital works deductions amount for rental buildings only. For information on capital works deductions see appendix 5 on page 74.

Other rental deductions

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

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

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 on page 70. The disallowed amount reduces the amount that would otherwise go in label **H**.

Net rent

Show at this item the net amount of any rent or any premium received. If this amount is a loss, print **L** in the box to the right of the amount.

For more information refer to the publication *Rental properties*.

Note: Tax agents who lodge Partnership or Trust tax returns through ELS are required to complete the *Partnership and trust rental property schedule 2002* where item 9—Rent is to be completed. For instructions on how to complete the schedule, visit the ATO website at www.ato.gov.au and enter 'partnership and trust rental property schedule' into the search function.

10 Gross interest

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

Show at label **J** the interest from banks and credit unions, building societies, debentures, notes and deposits, discounted or deferred interest securities, government securities, Commonwealth government loans issued before 1 November 1968 and interest paid by the ATO.

Note: Interest that is part of a cash management trust distribution or other similar trust investment product is shown at item 8—Partnerships and trusts.

Copy details from all statements to the worksheet 5—Interest on page 64. Keep the worksheet with your tax records.

Do not include non-share dividends received from holding a non-share equity interest. If the partnership or 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 11—Dividends. Further information on non-share dividends and non-share equity interests can be found in the—*Guide to the debt and equity tests* on the ATO internet site at www.ato.gov.au

Discounted, deferred interest or capital-indexed securities

Show at label **J** the appropriate amount of discount, interest or other gain if the discount, interest or any other gain accrued this income year on a discounted, deferred interest or capital-indexed security that:

- issued after 16 December 1984
- 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.

Example 8

On 1 July a zero-interest-discounted security is issued at \$82.65, redeemable on 30 June after 2 years at a face value of \$100. The investor holds the security until it matures. The partnership is required by ITAA 1936 to calculate the effective rate of interest for each 6-month period. In this case it is 4.88 per cent.

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

Table 13

Value of security at:		Year 1	Year 2
		\$	\$
Beginning of year	A	82.65	90.91
Half year	B	86.68	95.35
Increase	B – A = C	4.03	4.44
End of year	D	90.91	100.00
Increase	D – B = F	4.23	4.65
Increase for year	C + F	8.26	9.09

In the example the 6 monthly period falls at exactly half year.

TFN amounts withheld from gross interest

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

Record retention—Keep all documents issued by the financial institution that detail payments of income and any TFN amounts withheld from those payments.

Do not attach these documents to the Partnership tax return or Trust tax return but keep with your tax records.

Note: The ATO may check the amount shown at label **J** with its own records to determine accuracy. For more information refer to information matching on page 3.

11 Dividends

If the partnership or trust is a shareholder or holder of a non-share equity interest in a company (including a listed investment company), or held units in a corporate unit trust or a public trading trust, the company, corporate unit trust or public trading trust gives the partnership or trust a statement of dividends or non-share dividends. This statement includes the unfranked amount, the franked amount, the imputation credit and any TFN amounts withheld.

Show only amounts received from Australian companies, corporate limited partnerships, corporate unit trusts and public trading trusts. Dividends that are part of a distribution from a managed investment fund or other similar trust investment product are shown at item 8—Partnerships and trusts. Dividends received from foreign sources are shown at item 20—Other assessable foreign source income.

Copy details from all statements to worksheet 6—Dividends on page 65. Keep the worksheet with the partnership's or trust's tax records.

If the partnership or trust was paid a dividend by a listed investment company (LIC) and the dividend advice statement shows a LIC capital gain amount, the partnership or trust can claim a deduction of 50 per cent of the LIC capital gain amount at item 14—Deductions relating to Australian investment income.

Distributions from a Film Licensed Investment Company (FLIC) may be affected by section 375–872 of the ITAA 1997. This provision treats certain distributions of concessional capital (capital that was invested in a FLIC during its licence period) as franked dividends.

A partnership or trusts which invested in a FLIC may have received a notice from the company advising that it is returning an amount of concessional capital which, for tax purposes, is a franked dividend. The FLIC will advise the amount of dividend and the imputation credit.

For trusts, the amount of the franked dividend is shown at label **L** and the imputation credit is included at label **M**.

For partnerships, this dividend and imputation credit is not included in the partnership's income tax return. Instead it is included in each partner's own tax return in

the same proportion as that applicable to the subscription payment for the shares.

Note: To the extent that family trust distribution (FTD) tax has been paid on a dividend paid or credited to the partnership or trust by a company which has made an interposed entity election, the dividend is excluded from the assessable income of the partnership or trust under section 271-105 of Schedule 2F to ITAA 1936 and is not shown at labels **K** or **L**. Any losses or outgoings incurred in deriving an amount which is excluded from assessable income under section 271-105 are not deductible and a credit or tax offset cannot be claimed for any imputation credit attached to the exempt portion of the dividend. Accordingly, do not include any amount at label **M** for an imputation credit attached to the whole or part of a dividend that is exempt under section 271-105. For more information about the circumstances in which FTD tax is payable see pages 9 and 14.

For more information on dividends, imputation credits and tax offset entitlement see appendix 1 on page 68.

Unfranked amount

Show at label **K** the gross amount of unfranked dividends, and the franked amount of partially franked dividends, received before any TFN amounts were withheld.

If the partnership or trust is a holder of a share or non-share equity interest, or an associate of a holder of a share or non-share equity interest, in a private company and received payments from the company or loans from the company or a trustee—(where the company has a present entitlement)—or had debts forgiven by the company, the amounts, (subject to distributable surplus), of those payments, 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 ITAA 1936.

Franked amount

Show at label **L** the total amount of franked dividends, and the franked amount of partially franked dividends, received before any TFN amount were withheld.

Imputation credit

Show at label **M** the amount of imputation credits received directly from a paying company. Do not show imputation credits if the partnership or trustee did not satisfy the holding period rule and the related payments rule in relation to the dividend. For more information see appendix 1 on page 68.

The amount at label **M** is distributed to the partners, beneficiaries or trustee and is allowed as a tax offset to reduce their tax payable. Show imputation credits received indirectly through another partnership or trust at

item 8, label **D**—**Share of imputation credit from franked dividends.**

TFN amounts withheld from dividends

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

Note: The ATO may check the amount shown at labels **K**, **L** and **M** with its own records to determine accuracy. For more information see Information matching on page 3.

12 Other Australian income

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

Bonuses from life insurance companies and friendly societies

If, during the year ended 30 June 2002, the partnership or trust was paid any bonuses or other amounts in the nature of bonuses on the maturity, forfeiture or surrender of a short-term life assurance policy taken out after 27 August 1982, the amount may need to be shown at label **O**.

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

Do not include the amount shown on a bonus certificate if the partnership or 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 superannuation fund or scheme, an approved deposit fund or a pooled superannuation trust
- can show that the amount was received because of serious financial difficulties or
- received a bonus certificate in respect of an amount reinvested to increase the amount receivable on surrender or maturity.

If the policy has a date of commencement of risk after 7 December 1983 then any bonus is included in assessable income in full if received within the first 8 years after the date of commencement of risk of the policy. Two-thirds of the amount is included if the bonus is received in the 9th year and one-third if the bonus is received in the 10th year. Amounts received after the 10th year are not included.

If the policy has a date of commencement of risk after 27 August 1982 and before 7 December 1983 then any bonus is included in assessable income in full if received within the first 2 years after the date of commencement of risk of the policy.

Two-thirds of the amount is included if the bonus is received in the 3rd year and one third if the bonus is received in the 4th year. Amounts received after the 4th year are not included.

If the amount of a premium increases by more than 25 per cent over the previous years premium then the commencement date of the policy is taken to have started again in the year the premium increased.

The partner, trustee or the beneficiary—in their own assessment, as the case may be—may 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:

- one that pays tax on the income from which the amount was paid
- a friendly society
- the State Government Insurance Office in New South Wales, South Australia, Victoria or Western Australia or
- Suncorp Insurance and Finance in Queensland.

The tax offset for the 2001–2002 income year is equal to:

- 33 cents in each dollar in the case of friendly societies
- 34 cents in each dollar in any other case.

The bonus or other amount in the nature of a bonus is included in the calculation of net income or loss of the partnership or trust and is apportioned among the partners or beneficiaries in the same ratio as they share in that net income or loss.

If the partnership or trust received bonuses from a friendly society and other institutions, include the total amount at label **O**. To ensure that the right tax offset is allowed, attach a statement to the Partnership or Trust tax return showing the separate amounts from the friendly society and the other cases mentioned above. Print Yes in the Have you attached any 'other attachments'? box on page 1 of the tax return.

Record retention—If a bonus or other amount in the nature of a bonus is included at label **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 date that each amount was received
- the nature of each amount—for example, bonus, loan, withdrawal
- the circumstances under which each amount was received—for example, partial surrender of policy, serious financial difficulties, death, accident, illness
- the basis of calculation of the amount included.

For more information on bonuses paid on certain life assurance policies refer to *Taxation Ruling IT 2346*.

Add-backs: Listed investment company (LIC) capital gain

Where a distribution is received from another partnership or trust which advises that it has claimed a deduction in respect of a 'LIC capital gain amount', the partnership or trust is required to add-back as income its share of the deduction allowed to the other partnership or trust.

Royalties

For information on royalty income shown at label **O**, see appendix 2 on page 70.

Foreign exchange gains or losses

Show at label **O** foreign exchange gains or losses of a capital nature—except those that are subject to CGT. If the total amount at label **O** is a loss, print **L** in the box to the right of the amount.

For more information see see appendix 6— foreign exchange gains or losses of a capital nature on page 78.

Note: As foreign currency is a CGT asset, the capital gains provisions apply to any capital gain or capital loss made on a CGT event happening. Any capital gain would generally be reduced to prevent double taxation if the gain was assessable under Division 3B of Part III of ITAA 1936.

P Where a partnership has made a foreign exchange gain or loss, which is subject to CGT, each partner must include their share of the capital gain or capital loss in their own return.

T Where a trust has made a foreign exchange gain or loss, which is subject to CGT, show the capital gain or capital loss at item 18—Net capital gain.

Eligible termination payments **T**

An eligible termination payments (ETP) is:

- a lump sum paid by an employer in consequence of the termination of employment
- a lump sum payment from a superannuation fund, approved deposit fund (ADF), retirement savings account (RSA), life assurance company or registered organisation, such as:
 - payments received when a superannuation pension or annuity is changed into a lump sum
 - payments received when a withdrawal is made from an ADF
 - other payments, excluding a pension or annuity from a superannuation fund
- a payment from the ATO of amounts collected from the Superannuation Guarantee or superannuation holding account reserve (SHAR)
- a payment from the sale of an active asset of a small business, which would otherwise be an assessable capital gain—called the 'CGT exempt component'.

An ETP paid following the death of a person—for example, a payment from a superannuation fund or a RSA of which the deceased person was a member—is called a 'death benefit ETP'.

A death benefit ETP paid to the trustee of the deceased person's estate is assessable in the hands of the trustee. However, provided the death benefit ETP is within the deceased person's reasonable benefit limit (RBL), it is not taxable to the extent that it benefits dependants of the deceased person.

A dependant of the deceased is a person who at the time of death, or at the time the payment was made, was a surviving spouse or de facto spouse, an ex-spouse, a child of the deceased under 18 years of age, or a person financially dependant on the deceased. If you need to know what financially dependant means phone the Superannuation infoline on **13 1020**.

The RBL is the maximum amount of superannuation and similar benefits that is taxed at concessional or reduced rates. The RBL limits for the 2001–02 income year are:

Table 14

LUMP SUM RBL	PENSION RBL
\$529 373	\$1 058 742

That part of the death benefit ETP that exceeds the deceased person's RBL is called the excessive component.

The ATO will determine if some or all of the death benefit ETP is within the RBL of the deceased. If some or all of the ETP death benefit is above the RBL, the ATO issues a written *RBL Determination*, which shows part or all of the

payment as an excessive component. If the ETP has an excessive component, also attach the *RBL Determination* to the Trust tax return.

If all the beneficiaries are dependants, return any excessive component at label **O**. If all the beneficiaries are non-dependants, or if there are dependent and non-dependent beneficiaries, phone the Superannuation infoline on **13 1020** for more information to calculate the assessable amount.

The payer of a death benefit ETP should provide an ETP payment summary for a death benefit ETP and this is attached to the Trust tax return. If you have an ETP payment summary showing that amounts were withheld from the payment, attach a statement to the tax return indicating the amount that was withheld. Print Yes in the Have you attached any 'other attachments'? box on page 1 of the tax return. If this cannot be done, phone the Superannuation infoline on **13 1020** for assistance.

For more information on ETPs refer to the publication *Eligible Termination Payments: A practical guide for superannuation payers who are paying an Eligible Termination Payment to a member*.

Excepted net income **T**

Show at label **O** and Excepted net income the excepted net income received, excluding net capital gains that are included at item 18, label **A—Net capital gain**.

Also attach a statement to the Trust tax return:

- detailing the distribution of excepted income to each beneficiary and
- listing each beneficiary who is considered to be an excepted person, giving supporting reasons.

Print Yes in the Have you attached any 'other attachments'? box on page 1 of the tax return. For an explanation of excepted income and excepted person see appendix 11—Instructions to trustees where a beneficiary is under 18 years of age—other than trustees of deceased estates on page 70.

13 Total of items 5 to 12

Show at item 13 the total of all Australian income.

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

14 Deductions relating to Australian investment income

Note for STS taxpayers: If the partnership or trust is eligible to enter the STS and has elected to do so at item 3—Simplified tax system (STS) election, it can claim general deductions—for example, interest expense—only when they are paid. For more information on the STS accounting method, see page 19.

Show at label **P** the expenses incurred in earning interest and dividends.

If the partnership or trust was paid a dividend by a LIC and the dividend included a LIC capital gain amount, the partnership or trust can claim a deduction of 50 per cent of the LIC capital gain amount. The listed investment company's dividend advice statement shows the LIC capital gain amount.

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—Thin capitalisation on page 70. The disallowed amount reduces the amount that would otherwise go in label **P**.

15 Other deductions

Note for STS taxpayers: If the partnership or trust is eligible to enter the STS and has elected to do so at item 3—Simplified tax system (STS) election, it can claim deductions for the following expenses only when they are paid:

- general deductions—for example, interest expense
- tax-related expenses and
- expenses for repairs.

For more information on the STS accounting method, see page 19.

Show at label **Q** any deductible losses and outgoings not already claimed by the partnership or trust at any other items

If the partnership or trust is registered for GST, any input tax credit entitlements that arise in relation to expenses incurred by the partnership or trust should be excluded from the amount shown at label **Q**.

Losses and outgoings

Losses and outgoings are deductible to the extent to which 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 deduction may be available to the partnership or trust for costs incurred in obtaining or servicing debt finance where the costs are incurred in earning foreign source income which is exempt under section 23AI or 23AK of the ITAA 1936. The amount of the deduction is subject to any reduction that may be required by the thin capitalisation rules.

Note: 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 no longer quarantined

to assessable foreign source income. Therefore, these expenses may be deducted against assessable income of the partnership or trust, subject to any reduction that may be required under the thin capitalisation rules. The deduction for these expenses should be taken into account at label **Q**. They should not be taken into account at Item 20—Other assessable foreign source income or any other item.

The following are not deductible:

- 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 income—except certain debt deductions under section 25-90 of ITAA 1997
- penalties or fines
- income tax liabilities, and
- 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—Thin capitalisation on page 70. The disallowed amount reduces the amount that would otherwise go in label **Q**.

Tax-related expenses

Show at label **Q** any expenses incurred by the partnership or trust in the management of its tax affairs. Expenses incurred 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, or a barrister or solicitor and
- the interest component included in an amended assessment that increases tax liability.
- a penalty for underestimating a varied GST instalment

The partnership or trust cannot claim a deduction for the cost of capital items. A deduction for the decline in value of a depreciating asset—used for taxable purposes is allowable. An example might be a computer used for the management of the tax affairs of the partnership or trust. Where a depreciating asset is used for private, domestic and taxable purposes, the deduction for decline in value is apportioned to reflect only that part which is related to a taxable purpose.

A deduction is not allowable for costs for any offence-related matter—for example, the cost of defending a tax prosecution.

Where expenditure allowed or allowable as a deduction is recouped, the amount recouped is included in assessable income in the year of recoupment.

Payment of premium to a non-resident insurer

A deduction cannot be claimed for insurance premiums paid to a non-resident of Australia for the insurance of property situated in Australia or of an event which can happen only in Australia, unless arrangements have been made to the satisfaction of the ATO for the payment of any tax payable or that may become payable in relation to the premium. Keep a record of the details supporting any claim for a deduction.

Gifts

Gifts of \$2 and upwards to endorsed school building funds, public hospitals, endorsed public benevolent institutions and to other endorsed bodies or funds, including approved overseas aid funds that have been endorsed, are allowable deductions. To check whether a recipient of a gift or a donation has been endorsed by the ATO as a deductible gift recipient (DGR) phone **13 2478** or visit the website at **www.business.gov.au**

If claiming the value of property donated under the Incentive Scheme for the Arts or to National Trust bodies, keep the required valuation certificates.

Subscriptions

Show at label **Q** expenses incurred for subscriptions paid to:

- trade, business or professional associations
- other organisations where the subscription is incurred in the production of assessable income and
- journals, newspapers or magazines where these relate to the production of assessable income.

Do not claim for fees paid to acquire or retain membership of a sporting or social club or a political party.

Film industry incentives **T**

For more information explaining the conditions under which concessions are available to a trust that invests or contributes money to the production of a qualifying Australian film refer to the publication *Australian film industry incentives*.

For partnerships, any relevant expenditure is shown in each partner's own tax return. For more information, refer to the publication *Australian film industry incentives*.

Foreign exchange gains or losses

Show at label **Q** deductions relating to foreign exchange gains or losses included at item 12—Other Australian income.

16 Total of items 14 and 15

Show at item 16 the total deductions relating to Australian income.

17 Net Australian income or loss

Show at label **\$** the net income or loss relating to Australian income for you—that is, total Australian income minus total deductions. If this amount is a loss, print **L** in the box to the right of the amount.

18 Capital gains **T**

Did you have a CGT event during the year?

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—but some CGT events can happen without involving a CGT asset. For more information about CGT events refer to the publication *Guide to capital gains tax*.

If you cease to hold or to use a depreciating asset, a balancing adjustment event occurs. Calculate the balancing adjustment amount to include in assessable income or to claim as a deduction. If the asset was used for both taxable and non-taxable purposes, the balancing adjustment amount is reduced by the amount attributable to the non-taxable use. A capital gain or capital loss may arise attributable to that non-taxable use.

At label **G** print **Y** for **Yes** or **N** for **No**.

If the trust had a CGT event happen during the income year, or if the trust received a distribution of a capital gain from a trust, print **Y** for **Yes** at label **G**. Otherwise, print **N** for **No** at label **G**.

The publication *Guide to capital gains tax* 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 assist in calculating a trust's net capital gain or capital loss for the income year and completing the CGT labels in the Trust tax return. Completion of the worksheets is not mandatory. They are not to be attached to the Trust tax return but are retained with the trust's tax records.

However, if the trust has:

- total current year capital gains for the income year greater than \$10 000 or
- total current year capital losses for the income year greater than \$10 000

a CGT schedule must be completed and attached to the Trust tax return.

Net capital gain

The trust's net capital gain is the total capital gains it made for the income year reduced by current year capital losses, prior year net capital losses and any other relevant

concessions. Relevant concessions are:

- the small business 50 per cent active asset reduction
- the small business retirement exemption and
- the small business roll-over relief
- CGT discount.

Show at label **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:

- label **G** at part H of the CGT summary worksheet or
- label **G** at part H of the CGT schedule.

For more information on how to calculate the trust's net capital gain, refer to the publication *Guide to capital gains tax*.

Note: The trust may need to complete a Losses schedule. For more information refer to the *Losses schedule instructions*.

Excepted net capital gain of a minor

Include the amount of any excepted net capital gain of a minor at label **A** and attach a statement to the Trust tax return:

- detailing the distribution of excepted capital gains to each beneficiary and
- listing each beneficiary who is considered to be an excepted person, giving supporting reasons.

Print **Yes** in the Have you attached any 'other attachments'? box on page 1 of the tax return.

For an explanation of excepted income and excepted person see appendix 11—Instructions to trustees where a beneficiary is under 18 years of age—other than trustees of deceased estates on page 90.

19 Attributed foreign income

For more information on the calculation of the amounts shown at labels **M**, **U** and **X** refer to the publication *Foreign income return form guide*. For more information on the calculation of the amount shown at label **Y** refer to the publication *Foreign investment funds guide*.

Did you have either a direct or indirect interest in a foreign trust, controlled foreign company or transferor trust?

Direct or indirect interests in a controlled foreign company or a foreign trust are taken to have the same meaning as set out in Division 3 of Part X of ITAA 1936.

A partnership or trust has an interest in a transferor trust if the partnership or 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 are defined in section 102AAB of ITAA 1936.

Sections 102AAJ and 102AAK of ITAA 1936 provide guidance in relation to 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 **Y** at label **S** and complete section B of Schedule 25A, together with any other relevant part or schedule, and attach the completed *Schedule 25A 2002* to the Partnership or Trust tax return.

If the answer to this question is **No**, print **N** at label **S**.

For more information refer to the *Schedule 25A instructions*.

Did you have an interest in a foreign investment fund (FIF) or a foreign life assurance policy (FLP)?

If the answer is **Yes**, print **Y** at label **T** and complete section B of Schedule 25A, together with any other relevant part or schedule, and attach the completed *Schedule 25A 2002* to the Partnership tax return or Trust tax return.

If the answer is **No**, print **N** at label **T**.

Interest in a FIF or FLP has the same meaning as set out in section 483 of ITAA 1936.

Broad-exemption listed country

Show at label **M** the amount of gross attributed foreign income from controlled foreign entities in broad-exemption listed countries. Broad-exemption listed countries are listed in Part 1 of Schedule 10 of the *Income Tax Regulations*.

Gross 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 ITAA 1936, and grossed-up under s392 of the ITAA 1936, as appropriate, to the extent of any foreign taxes paid.

A broad-exemption listed country trust is defined in section 102AAE of ITAA 1936.

Limited-exemption listed country

Show at label **U** the amount of gross attributed foreign income from controlled foreign entities in limited-exemption listed countries. Limited-exemption listed countries are listed in Part 2 of Schedule 10 of the *Income Tax Regulations*.

Also show at label **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 limited-exemption listed country. The attributed foreign income from transferor trusts is the total amount of income attributed to the taxpayer, from the foreign trusts that are transferor trusts, calculated in accordance with Division 6AAA of Part III of the ITAA 1936, and grossed-up under section 102AAU(1)(d) of the ITAA 1936, as appropriate, to the extent of any foreign taxes paid. Do not include the amount if it is shown at label **M**.

Unlisted country

Show at label **X** the amount of gross attributed foreign income from controlled foreign entities in unlisted countries. Unlisted countries are countries that are not listed in Schedule 10 of the *Income Tax Regulations*.

Also show at label **X** the amount of income attributed from a transferor trust if the amount has not been shown at labels **M** or **U**.

FIF/FLP income

Show at label **Y** the amount of net attributed foreign income from Foreign investment funds (FIFs) and Foreign life assurance policies (FLPs). The terms FIF and FLP have the same meaning as set out in sections 481 and 482 of ITAA 1936 respectively. Attributed foreign income is the income attributed to the taxpayer from FIFs or FLPs, calculated in accordance with Subdivisions B, C or D (for FIFs) and Subdivisions E or F (for FLPs) of Division 18 of the ITAA 1936, as appropriate.

20 Other assessable foreign source income

T A Losses schedule must be completed if the trust claims a deduction for foreign source losses, has—
 ‘current year’ foreign source losses, has foreign source losses carried forward to later income years, claims a deduction for prior year Controlled foreign company (CFC) losses, has ‘current year’ CFC losses or has CFC losses carried forward to later income years.

Foreign source income is included in the net income of the partnership or trust.

Foreign source income that is not shown at item 19—Attributed foreign income is shown at item 20—Other assessable foreign source income.

Gross foreign source income

Show at label **B** the gross amount of assessable income derived from foreign sources, excluding:

- income already shown at item 19—Attributed foreign income
- any foreign source capital gains or capital losses.

T: foreign source capital gains or capital losses are taken into account in calculating the amount at item 18—Net capital gain.

P: each partner must include their share of any foreign source capital gains or capital losses in their own tax return.

Note: In referring to ‘foreign source capital gains’ an Australian resident partner or trust makes a capital gain if a CGT event happens to any of their worldwide CGT assets. A partner or trust that is not an Australian resident makes a capital gain, generally speaking, if their CGT asset has the necessary connection with Australia just before the CGT event happens.

Include any foreign tax paid on that income, but do not include any income, which is exempt from tax in Australia.

Net foreign source income

Note: 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 no longer applied against assessable foreign source income for the purpose of calculating net foreign income or identifying a foreign loss. These amounts should **NOT** be claimed here but should be taken into account at item 15—Other deductions.

Show at label V the net income derived from foreign sources, excluding:

- income already shown at item 19—Attributed foreign income
- any foreign source capital gains or capital losses. For trusts, foreign source capital gains or capital losses are taken into account in calculating the amount item 18—Net capital gain. For partnerships each partner must include their share of any foreign source capital gains or capital losses in their own tax return.

This is the gross amount shown at label B, less any deductions allowable to the partnership or trust against that income (see note above in relation to debt deductions).

Do not show a loss at label V.

If the assessable foreign income for a particular class of assessable foreign income is exceeded by the sum of foreign income deductions for that class, the excess is carried forward for offset against future foreign source assessable income of the same class and for trusts is shown on the Losses schedule.

Note: Foreign losses are quarantined within the partnership or trust, and are not available for distribution to the respective partners or beneficiaries. For more information for partnerships refer to *Taxation Determination TD 92/113*.

Prior year foreign source losses

If the assessable foreign income for a particular class of assessable foreign income exceeds the sum of foreign income deductions for that class, the partnership or trust can deduct any allowable foreign source losses for that class brought forward from prior years. The deduction cannot exceed the amount of net foreign income for that class.

T

- If a trust is deducting any foreign source losses from its assessable foreign income, complete a Losses schedule and attach it to the Trust tax return.

- Under the trust loss provisions of Schedule 2F to 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 9—Trust loss and bad debt legislation—Schedule 2F to ITAA 1936 on page 86.

Allowable prior year Australian source losses **T**

Under section 79DA of ITAA 1936 the trust can make an election to use allowable prior year Australian source losses to offset net foreign source income.

Note: Prior year domestic losses are not included at item 20—Other assessable foreign source income but at item 22—Tax losses deducted.

Foreign tax credit

Show at label Z the amount of any foreign tax credit claimed against foreign source income—for trusts—foreign tax credits in relation to foreign sourced capital gains should also be shown at label Z.

To calculate the amounts of net foreign income and foreign tax credit allowable, refer to chapter 3 of the publication *Foreign income return form guide*.

For more information on how to calculate the amount of net foreign source income and foreign tax credit that each partner or beneficiary is entitled to, use Worksheet 8 — Distribution of foreign income and foreign tax credits on page 67.

Note **P:** Partnerships do not include foreign tax credits in relation to capital gains at label Z. Each partner must include their share in their own tax return.

21 Total of items 17 to 20

Show at item 21 the total of the amounts shown at items 17 to 20.

If this amount is a net loss, print L in the box to the right of the amount. Do not include prior year Australian or foreign source losses here.

T If the amount shown at item 21 for a trust is a net income amount and the trust is able to deduct the whole or part of prior year Australian source losses in the 2001-02 income year under section 36-15 of ITAA 1997, show the amount of prior year Australian source losses to be deducted, at item 22—Tax losses deducted.

22 Tax losses deducted **T**

Show at label C tax losses from earlier income years, which are deductible in the 2001-02 income year under section 36-15 of ITAA 1997.

Note: A Losses schedule must be completed if the trust is a listed widely held trust (as defined of Schedule 2F of ITAA 1936) and the trust is required to pass the same business test in order to claim a deduction for losses in

the 2001–02 income year or will be required to pass that test in respect of losses being carried forward to later income years. Refer to Subdivision 269-F of Schedule 2F of ITAA 1936. For more information on the requirements for lodging the Losses schedule refer to *Losses schedule instructions*.

Do not include film losses or foreign source losses at item 22. Foreign source losses are included in completing item 20—Other assessable foreign income. Film losses are included in completing Part F—Film losses of the Losses schedule.

The total of any income shown at label **C** cannot exceed the amount of net income shown at item **21—Totals of 17 to 20**

Under the provisions of Schedule 2F to ITAA 1936, conditions effective from 9 May 1995 have to be satisfied by a trust before it can claim a deduction under section 36-15 of ITAA 1997 for the whole or part of an earlier income year loss. Some trusts may be required 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 9—Trust loss and bad debt legislation—schedule 2F to ITAA 1936 on page 86.

Note: Item 24—Losses information is completed 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 2001–02 income year. Refer to Division 270 of Schedule 2F to 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—the tax loss is first deducted from the net exempt income, with any remaining amount of tax loss then being deducted from the excess assessable income. Refer to subsection 36-15(3) of 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. Refer to subsection 36-15(4) of ITAA 1997.

A trust's net exempt income is calculated in accordance with section 36-20 of ITAA 1997.

Note: Keep a record of any claims for undeducted tax losses of earlier income years. The trust must keep a record of its tax losses and account for any adjustments including those made by the ATO. Where a trust incurs tax losses, records may need to be kept longer than 5 years from the date when the losses were incurred.

Generally tax losses incurred this year can be carried forward indefinitely, until they are applied by recoupment. When applied, the loss amount is a figure that leads to the calculation of the trust's net income (and beneficiary's taxable income) in that year. It is in the trust's interest to keep records substantiating this year's losses until the amendment period for the beneficiary's assessment for the recoupment year in which the losses are fully applied has lapsed (up to 6 years from the date of that assessment). Item 24—Losses information must also be completed.

Losses from primary production may generally be carried forward indefinitely until deducted irrespective of the year in which the loss was incurred.

A deduction is not available for non-primary production losses incurred in income years up to and including the 1988–89 income year. Non-primary production losses incurred in the 1989–90 and later income years may be carried forward indefinitely until deducted.

Beneficiaries with no interest in trust capital

A life tenant is a beneficiary with an interest in the income of the trust 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, no deduction is available 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 9

The XYZ trust has tax losses of earlier income years of \$2000. Its net income is \$20 000—excluding losses of earlier income years. There are 2 presently entitled beneficiaries of the trust each with a 50 per cent interest in the income of the trust. The tax 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 in respect of 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 per cent 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 per cent of (\$20 000–\$2000)—that is, \$9000.

23 Total net income or loss **T**

The amount shown at item 23 must be equal to the amount shown at item 21—Total of items 17–20, less any amount shown at item 22—Tax losses deducted.

If the amount shown at item 21 was a net loss amount, the total net loss amount shown at item 23 is the same. If the amount shown at item 21 was a net income amount, the amount shown at item 23 cannot be a loss since the total amount, which can be claimed as a deduction at item 22 must not exceed the amount of net income shown at item 21.

Print **L** in the box at the right of the amount, if the amount at item 23 is a loss.

Do **NOT** include foreign source losses at item 23—take these into account, to the extent permitted at item 20—Other assessable foreign income.

24 Losses information **T**

Do not include carry forward film losses or carry forward foreign source losses at this item. Film losses carried forward to later income years are shown at Part F—Film losses of the Losses schedule, while foreign source losses carried forward to later years are included at part G of the Losses schedule.

Note:

- If the total of the trust's tax losses and net capital losses carried forward to later income years is greater than \$100 000, a Losses schedule is completed and attached to the Trust tax return.
- If the income injection test in Division 270 of Schedule 2F to ITAA 1936 prevents the trust from fully claiming a deduction in the 2001–02 income year, the amount which the trust is prevented from claiming in the 2001–02 income year under Division 270 is included in the amount shown at label **U**, and the amount of the 'scheme assessable income' within the meaning of Division 270 must be fully included in the amount of total net income of the trust shown at item 23—Total net income or loss.

Tax losses carried forward to later income years **T**

Show at label **U** the undeducted amount of tax losses incurred by the trust that can be carried forward to the 2002–03 income year under section 36-15 of ITAA 1997.

Net exempt income reduces a current year tax loss and, to the extent of any excess, reduces prior year tax losses. Tax losses carried forward may be affected by the commercial debt forgiveness provisions—see appendix 4—Commercial debt forgiveness on page 71.

Any net capital losses to be carried forward to later income years are not included at label **U** but are shown separately at label **V—Net capital losses carried forward to later income years** and in the CGT schedule, if a schedule is required.

If the trust is required to complete a Losses schedule, the amount of the tax losses shown at label **U** in part A of that schedule must be the same as the amount shown at label **U** in the Trust tax return.

Net capital losses carried forward to later income years

Show at label **V** the total of any unapplied net capital losses from collectables and unapplied net capital losses from all other CGT events. This information is calculated or transferred from:

- label **V** in part I of the CGT summary worksheet or
- labels **H** and **I** in part I of the CGT schedule, if a schedule is required.

For more information refer to the publication *Guide to capital gains tax*.

If the trust is required to complete a Losses schedule, the amount shown at label **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 label **V** in the Trust tax return.

25 Landcare and water facility tax offset **T**

Note: The landcare and water facility tax offsets are not available for expenditure incurred after the 2000–01 income year.

However, if the trust chose to claim a water facility tax offset over 3 years instead of a deduction for capital expenditure incurred on water facilities in the 1999–2000 or the 2000–01 income year, a tax offset is available in this income year.

The water facility tax offset is 30 cents in the dollar for one-third of the relevant expenditure incurred in the 1999–2000 and 2000–01 income years.

Show at label **F** the amount of any water facility tax offset to which the trust became entitled in the 1999–2000 and 2000–01 income years for capital expenditure incurred in those years and which is available for offset in this income year.

Print code **W** in the **CODE** box.

Landcare and water facility tax offset brought forward from prior years

Show at label **G** the total of any landcare and water facility tax offsets carried forward and available to be applied in this income year.

Before a tax offset can be applied to reduce the amount of income tax to be paid for this income year, it must be reduced for any unused net exempt income for this year and for any earlier income year after the year in which the tax offset arose. The net exempt income of an earlier income year is only taken into account if the trust had a taxable income for that year but didn't apply the tax offset to reduce the amount of tax payable. The tax offset is reduced by 34 cents for each dollar of net exempt income.

The amount to show at label **G** would take this reduction into account.

26 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 \$1 million?

If the answer to this question is *No*, print **N** at label **W**.

If the answer is *Yes*, print **Y** at label **W** and complete section A of Schedule 25A together with any other relevant part of the schedule. Attach the completed schedule to the tax return.

The aggregate amount of the partnership's or 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.

International related parties are persons, including permanent establishments, who are parties to international dealings that can be subject to Division 13 of the *ITAA 1936* and/or the business profits article, or associated enterprises article, of a relevant double tax agreement. The term includes the following:

- Any overseas entity or person who participates directly or indirectly in the management, control or capital of the partnership or trust.
- Any overseas entity or person in respect of which the partnership or 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 partnership or trust.
- A permanent establishment and its head office.
- Two permanent establishments of the same person.

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*.

The type of dealings or transactions that will require the entity to complete part A of the Schedule 25A are dealings by the entity with related parties as above, such as an overseas holding company, overseas subsidiary, overseas permanent establishment of the entity, 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. The dealings may also include transfer of tangible or intangible property, provision or receipt of services, or the provision or receipt of loans or financial services.

Where 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.

Non-resident beneficiaries **T**

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 **N** at label **A**. If the answer is *Yes*, print **Y** at label **A**, and ensure that the details of the beneficiaries and the assessable amounts of net income to which each beneficiary—who is a non-resident at the end of the income year—is presently entitled are entered in columns 12 and 13 of item 57—Statement of distribution of the Trust tax return.

Where a non-resident beneficiary is presently entitled to trust income, the trustee generally pays tax on that income. The trustee, at the time of distribution, deducts the tax payable and remits it to the ATO.

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 withholding tax has been paid and remitted to the ATO from the distribution, the amount of such distribution and the withholding tax 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 made to the beneficiary, tax has been deducted and remitted to the ATO, the amount of the credit claimed for remittances made

- 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 whilst 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:

- where necessary, approval has been given for the transfer of amounts overseas
- where 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 the behalf of the beneficiary
- the beneficiary has been notified of the entitlement

Amount of tax spared foreign tax credits **T**

Show at label **Q** the amount of foreign tax credits relating to foreign tax forgone under an investment incentive provided by a foreign government, where the tax forgone is deemed to have been paid for the purpose of Australia's foreign tax credit rules. Refer to subsection 6AB(5) of ITAA 1936.

27 Personal services income

New rules for the income tax treatment of certain personal services income (PSI) earned by contractors and consultants commenced on 1 July 2000. The rules were subsequently amended by the TLAA (No 6). For more information see Schedules on page 2.

If PSI is not gained in the course of conducting a personal services business exclude:

- this income and
- certain related expenses.

Expenses specifically denied include rent, mortgage interest, rates and land tax for the residence of individuals (or their associates, eg spouse) whose efforts or skills generate the PSI for the partnership or trust, and salary and wages and superannuation paid in relation to associates of such individuals to the extent these payments relate to non-principle work.

Refer to the *Personal services income schedule instructions* for more information.

Adjustments relating to PSI are included at item 5—Reconciliation items (see worksheet 3 on pages 61–62).

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.

Examples of PSI include:

- income of a professional practitioner in a sole practice
- income payable under a contract which is wholly or principally for the labour or services of a person

- income derived by a professional sportsperson or entertainer from the exercise of professional skills
- income derived by consultants from the exercise of personal expertise.

It does not include income that is mainly:

- for supplying or selling goods—for example, from retailing, wholesaling or manufacturing, or
- generated by an income-producing asset, (such as a bulldozer), or
- for granting a right to use property—for example, the copyright to a computer program, or
- generated by a business structure—for example, an accountant working for a large accounting firm.

Print **Y** for Yes or **N** for No at label **N**.

If Yes to label **N**, were you a PPS entity as at 13 April 2000?

A partnership or trust is a PPS entity if it had a valid PPS payee declaration in force at 13 April 2000, which was received by the Commissioner on or before that date.

Print **Y** for Yes or **N** for No at label **O**.

If the answer to label **N** is Yes and to label **O** is No, complete and attach a PSI schedule to the Partnership or Trust tax return. The *Personal services income schedule instructions* contain a more detailed explanation of the new PSI rules.

Key financial information

Note: Items 28 to 32 must be completed for all partnerships and trusts.

28 All current assets

Show at label **F** all of the partnership or trust assets, including all current assets and other debtors. Include cash on hand, accounts receivable, short-term bills receivable, inventories and cash at bank. Also include the amount shown at item 38—Trade debtors.

29 Total assets

Show at label **G** all of the partnership or trust assets, including current, fixed, tangible and intangible assets. Also include the amount shown at item 28—All current assets.

30 All current liabilities

Show at label **I** the total obligations payable by the partnership or trust within the coming year. Also include the amount shown at item 39—Trade creditors.

31 Total liabilities

Show at label **J** all of the partnership or 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 30—All current liabilities.

32 Proprietors' funds

Show at label **K** the net proprietors' funds per accounting records. The amount shown at item 29—Total assets, less the amount shown at item 31—Total liabilities, equals the amount shown at label **K**.

If this amount is negative, print **L** in the box to the right of the amount.

Business and professional items**33 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.

34 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.

Postcode

Show at label **A** the postcode of the main business. This is the place where most of the business decisions are made.

35 Opening stock

Show at label **C** the total value of all trading stock on hand at the beginning of the income year or accounting period for which the Partnership tax return or Trust tax return is being prepared. The amount shown by the partnership or trust at label **C** is the calculated value for income tax purposes under section 70-40 of ITAA 1997. The opening value of an item of stock must equal its closing value in the previous year.

Include motor vehicle floor plan stock and work in progress of manufactured goods.

Exclude any amount that represents opening stock of a business that commenced operations during the income year. This amount is shown at item 5, Label **E—Cost of sales**.

36 Purchases and other costs

Show at label **B** the cost of direct materials used for manufacture, sale or exchange in deriving the gross proceeds or earnings of the business.

STS taxpayers

Only show at label **B** purchases and other costs which the partnership or trust has paid for.

37 Closing stock

If the partnership or trust is eligible to enter the STS and has elected to do so at item 3—Simplified tax system (STS) election refer to information for STS taxpayers below. Otherwise refer to information for Non-STS businesses, which follows the STS information.

STS taxpayers

STS taxpayers 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 \$5000. For more information of Reasonable estimate visit the ATO website

www.taxreform.ato.gov.au or phone the Tax reform infoline on **13 2478**.

STS taxpayers who wish to do so, can still choose to 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 \$5000 the partnership or trust must account for the change in the value of trading stock. Refer to Step 2. If the difference is not more than \$5000, refer to Step 1.

Step 1

If the difference referred to above is \$5000 or less and the partnership or trust chooses not to account for this difference, the closing stock value at label **D** is the same as the value at item 35, label **C—Opening stock**. Do not put the reasonable estimate at label **D**.

Write in the Type box at the right of label **D** the code letter that matches the method the partnership or trust used to value closing stock in the previous year.

Table 15

CODE	VALUATION METHOD
C	Cost
M	Market selling value
R	Replacement price.

If this is the partnership's or trust's first year in business the value of the closing stock will be zero. Write **C** in the Type box.

Step 2

If the difference referred to above is more than \$5000 or the partnership or 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. Refer to the information for Non-STS business below for instructions on how to calculate the value of closing stock.

Note: The partnership or trust must include in the closing stock value at label **D** the value of all stock on hand, regardless of whether the partnership or trust has paid for the stock.

Non-STS businesses

Show at label **D** the total value of all trading stock on hand at the end of the income year or accounting period for which the Partnership tax return or Trust tax return is being prepared. The amount at label **D** is the value calculated for income tax purposes under section 70-45 of ITAA 1997.

If the partnership or trust is registered for GST, the value of closing stock (other than items which cannot be a taxable supply) should not include an amount equal to the input tax credit that would arise if the partnership or 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.

Exclude any amount that represents closing stock of a business that ceased operations during the income year. This amount is shown at item 5—Business income, Total business income.

Print in the CODE box the code from **Table 16** indicating the method used to value closing stock for income tax purposes. Where more than one method is used, use the code applicable to the method representing the greatest value.

Table 16

CODE	VALUATION METHOD
C	Cost
M	Market selling value
R	Replacement price

Different methods of valuation may be used to value the same item of trading stock in different income years, and similar items may be valued 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 partnership or trust cannot reduce the value of stock on hand by creating reserves to offset diminution of the value of stock or any other factors. Keep records showing how each item was valued.

The partnership or 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. Where an election has been made to value an

item of trading stock below cost, market selling value and replacement price, see item 53—Trading stock election.

If incorrect trading stock information has been included in the tax return, advise the ATO 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.

Partnerships and 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.

Note: 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 ITAA 1997, refer to *Taxation Ruling TR 98/7*.

38 Trade debtors

Show at label **E** the total amounts owing to the partnership or trust at year end for goods and services provided during the income year—that is, current trade debtors. Also include this amount at item 28—All current assets.

Note for STS taxpayers: If the partnership or trust is eligible to enter the STS and has elected to do so at item 3—Simplified tax system (STS) election, you do not need to complete this item.

39 Trade creditors

Show at label **H** the total amounts owed by the partnership or trust at year end for goods and services provided during the income year—that is, current trade creditors. Also include this amount at item 30—All current liabilities.

Note for STS taxpayers: If the partnership or trust is eligible to enter the STS and has elected to do so at item 3—Simplified tax system (STS) election, you do not need to complete this item.

40 Total salary and wage expenses

Show at label **L** the total salary, wages and other labour costs actually paid or payable to persons employed in the partnership's or trust's business. However, exclude those costs for private domestic assistance or forming part of capital expenditure, as they are not deductible.

A partner cannot be an employee of a partnership. Payments to partners of salaries—in reality an allocation of profits prior to general distribution—are not allowable deductions in calculating the net partnership income or loss.

A deduction is only allowed for a payment made or liability incurred by a partnership or trust to a related entity if it is incurred in the production of assessable income and the ATO is satisfied that it is reasonable in amount.

These expenses include any salary and wage component of item 5, label **E—Cost of sales**—that is, allowances, bonuses, casual labour, retainers and commissions paid to people who received a retainer, and workers' compensation paid through the payroll. Also included are 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 and sick pay. Any salary and wage paid to an associated person is included here and at item 41—Payments to associated persons.

However, these expenses exclude agency fees, contract payments, sub-contract payments, service fees, superannuation, management fees and consultant fees.

Print in the CODE box the code from **Table 17** that matches the description of the expense component where salary and wage expenses have been wholly or predominantly reported.

Table 17

Included in the expense component of: Cost of sales	C
All other expenses	A
Included in both the expense components of: Cost of sales and All other expenses	B
Included in other than: Cost of sales and/or All other expenses	O

41 Payments to associated persons

For partnerships, show at label **M** the amounts, including salaries, wages, commissions, superannuation contributions or allowances, paid to:

- a relative of a partner
- another partnership in which a relative is a partner
- a shareholder or director (or their relatives) of a private company that is a partner in the partnership.
- a beneficiary (or a relative of a beneficiary) of a trust where the trustee is a partner in the partnership.

Do not show at label **M** amounts paid to a partner in the partnership.

For trusts, show at label **M** the amounts, including salaries, wages, commissions, superannuation contributions or allowances, paid to the trustee's relatives or partnerships in which a relative of the trustee is a partner.

For partnerships and trusts, also include the amounts of salaries and wages paid to relatives and other related entities at item 40—Total salary and wage expenses.

Record retention—Excessive payments to a relative or other related entity may not be deductible (see section 26–35 of 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 of age
- nature of duties performed
- hours worked
- total remuneration
- salaries, wages claimed as deductions
- other amounts paid—for example, retiring gratuities, bonuses and commissions.

42 Intangible depreciating assets first deducted

STS taxpayers

If the partnership or trust is eligible to enter the STS and has elected to do so at item 3—Simplified tax system (STS) election, do not include an amount at this label.

Non-STS taxpayers

The following intangible assets are regarded as depreciating assets (as long as they are not trading stock):

- certain items of intellectual property—patents, registered designs, copyrights and licences of these
- computer software (or a right to use computer software) that the partnership or trust acquire, develop or have someone else develop for your use for the purposes for which it is designed—in-house software
- mining, quarrying or prospecting rights and information
- spectrum licences
- datacasting transmitter licences
- certain indefeasible rights to use international submarine cable systems (IRUs).

A depreciating asset that the partnership or trust holds starts to decline in value from the time the partnership or trust uses it (or installs it ready for use) for any purpose, including a private purpose. However, the partnership or 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 label **N** the cost of all intangible depreciating assets for which the partnership or trust is claiming a deduction for decline in value for the first time. If the partnership or trust has allocated any intangible depreciating assets with a cost of less than \$1000 to a low-value pool for the income year, also include the cost of those assets at label **N**. Do not reduce the cost for estimated non-taxable use.

While expenditure on developing in-house software may not give rise to a depreciating asset when the expenditure is incurred and while any deduction for this year's expenditure allocated to a software development pool is not available until next year, the partnership or trust must include at label **N** any expenditure incurred during this income year to develop or have developed in-house software which was allocated to a software development pool. The partnership or trust must also include expenditure incurred this year on any in-house software

development not allocated to a software development pool.

For more information on decline in value, cost, low-value pools, in-house software and software development pools, refer to the publication *Guide to depreciating assets*.

Note: If an amount of more than \$5000 is shown at label **N**, complete and attach a Capital allowances schedule. For more information refer to the publication *Capital allowances schedule instructions*.

43 Other depreciating assets first deducted

STS taxpayers

If the partnership or trust is eligible to enter the STS and has elected to do so at item 3—Simplified tax system (STS) election, do not include an amount at this label.

Non-STS taxpayers

A depreciating asset that the partnership or trust holds starts to decline in value from the time the partnership or trust uses it (or installs it ready for use) for any purpose. However, the partnership or 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 label **U** the cost of all depreciating assets (other than intangible depreciating assets) for which the partnership or trust is claiming a deduction for the decline in value for the first time. If any assets (other than intangible depreciating assets) with a cost of less than \$1000 have been allocated to a low-value pool for the income year, also include the cost of those assets at label **A**. Do not reduce the cost for estimated non-taxable use.

For information on decline in value, cost and low-value pools, refer to the publication *Guide to depreciating assets*.

Note: If an amount of more than \$5000 is shown at label **U**, complete and attach a Capital allowances schedule. For more information refer to the publication *Capital allowances schedule instructions*.

44 Termination value of intangible depreciating assets

STS taxpayers

If the partnership or trust is eligible to enter the STS and has elected to do so at item 3—Simplified tax system (STS) election, do not include an amount at this label.

Non-STS taxpayers

For more information on intangible depreciating assets refer to item 42—Intangible depreciating assets first deducted on page 48.

Show at label **O** the termination value of each balancing adjustment event occurring for intangible depreciating assets—including pooled assets.

A balancing adjustment event occurs if the partnership or 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 partnership or trust receives or is deemed to receive in relation to the balancing adjustment event. It also includes the market value of any non-cash benefits such as goods and services the partnership or trust receives for the asset.

While amounts received in relation to in-house software may not constitute the termination value from a balancing adjustment event, the partnership or trust must also include at label **O** any consideration received during the income year in relation to in-house software for which expenditure has been allocated to a software development pool.

For more information on balancing adjustment events, termination value, in-house software and software development pools, refer to the publication *Guide to depreciating assets*.

In summary, add up any amounts received in relation to in-house software and the termination values for all intangible depreciating assets other than:

- assets falling within the provisions relating to investments in Australian films
 - IRUs where the expenditure was incurred at or before 11.45 a.m. (by legal time in the ACT) on 21 September 1999
 - IRUs used at or before that time for telecommunications purposes,
- and show this amount at label **O**.

45 Termination value of other depreciating assets

STS taxpayers

If the partnership or trust is eligible to enter the STS and has elected to do so at item 3—Simplified tax system (STS) election, do not include an amount at this label.

Non-STS taxpayers

Show at label **W** the termination value of each balancing adjustment event occurring for depreciating assets—including pooled assets.

A balancing adjustment event occurs if the partnership or 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 partnership or trust receives or is deemed to receive in relation to the balancing adjustment event. It also includes the market value of any non-cash benefits such as goods and services the partnership or trust receives for the asset.

For more information on balancing adjustment events and termination value, refer to the publication *Guide to depreciating assets*.

In summary, add up the termination values for all depreciating assets that the partnership or trust stopped holding or using other than:

- intangible depreciating assets
- buildings or structures for which a deduction is available under the capital works provisions
- assets used in research and development activities
- assets falling within the provisions relating to investments in Australian films,

and show this amount at label **W**.

46 Deduction for project pool

Show at label **P** the partnership's or trust's deductions for project pools—refer to appendix 7—Uniform capital allowances on page 78.

Note: If an amount greater than \$1000 is shown at label **P—Deduction for project pool** complete and attach a Capital allowances schedule unless the partnership or trust is eligible to enter the STS and has elected to do so at item 3. For more information see the *Capital allowances schedule instructions*.

47 Section 40–880 deduction

Show at label **X** the total of the partnership's or trust's deductions allowable under section 40–880. Refer to appendix 7—Uniform capital allowances on page 78.

48 Fringe benefit employee contributions

Show at label **T** all payments the partnership or 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.

49 Interest expenses overseas

Show at label **Q** the amount of interest paid on money borrowed from overseas sources.

This amount is also included at item 5, label **I—Total interest expenses**.

Note: 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. These amounts must be remitted to the ATO. No deduction is allowable unless any withholding tax has been remitted to the Commissioner.

50 Royalty expenses overseas

Show at label **R** the royalty expenses paid to non-residents during the income year.

This amount is royalties included in item 5, label **J—Total royalty expenses**, plus or minus any reconciliation adjustment for royalty expenses that was included at item 5—Reconciliation items.

Note: An amount of tax—withholding tax—is generally withheld from royalties paid or payable to non-residents. This amount must be remitted to the ATO. No deduction is allowable unless any withholding tax has been remitted to the Commissioner. For more information phone the Investment and royalty withholding taxes helpline on **13 2867**.

Record retention—Keep a record of the following:

- name and address of recipient(s)
- 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.

51 Landcare operations and deduction for decline in value of water facility

Partnership return

Do not show an amount at this item on the Partnership tax return. A deduction is not available to a partnership for expenditure incurred on landcare operations or on water facilities. For more information see appendix 8—Deductions applicable to partners on page 84.

T Deductions in relation to landcare operation expenditure and expenditure for water facilities are available to a trust. Show at label **S** the deduction for landcare operations and for the decline in value of water facilities. For more information, see Appendix 7—Uniform capital allowances on page 78.

52 Deduction for environmental protection expenses

Show at label **V** the amount of allowable expenditure on environmental protection activities—see appendix 7—Uniform capital allowances on page 78.

53 Trading stock election

The partnership or trust may elect to value an item of trading stock below the lowest value of cost, market selling value, or replacement price, 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 refer to *Taxation Ruling TR 93/23*.

Where an election is made, print **Y** for Yes in the box at this item.

54 STS depreciating assets

Only complete this item if the partnership or trust is eligible to enter the STS and has elected to do so at item 3—Simplified tax system (STS) election.

To complete this item use the amounts calculated for STS depreciation deductions at item 5, label **K—Depreciation expenses**.

Show at label **A—Low cost assets** the total amount claimed at item 5—Business income and expenses relating to low-cost assets.

Show at label **B—General pool assets** the total amount claimed at item 5 relating to the general STS pool.

Show at label **C—Long life pool assets** the total amount claimed at item 5 relating to the long life STS pool.

55 13 month prepaid expenses

STS taxpayers

If the partnership or trust is eligible to enter the STS and has elected to do so at item 3—Simplified tax system (STS) election do not complete this item.

Non-STS taxpayers

Do the 21 September 1999 prepayment changes apply?

The 21 September 1999 prepayment changes apply to certain prepaid business expenditure incurred by taxpayers other than small business taxpayers or STS taxpayers.

These changes provide that deductions for prepaid business expenditure incurred after 11.45 a.m. (by legal time in the ACT) on 21 September 1999 are only allowed in an income year to the extent the expense relates to that year. Transitional rules apply to reduce the initial impact of these changes where the prepaid expense was for things to be done within 13 months of the expenditure being incurred.

Print **Y** for Yes at label **T** and complete both labels **X** and **Y** if the partnership or trust had a prepaid expense in the 2001–02 income year where all of the following apply:

- the prepaid expense was incurred under a contractual obligation entered into after 11.45 a.m. (by legal time in the ACT) on 21 September 1999
- the partnership or trust was not a small business taxpayer or STS taxpayer for the income year
- the prepaid expense was incurred in carrying on a business
- the prepaid expense was for things to be done within 13 months of the expenditure being incurred and which would not be wholly done in the expenditure year
- the prepaid expense was not in respect of a tax shelter arrangement
- the prepaid expense was not in respect of a plantation forestry managed agreement, and
- the prepaid expense was \$1 000 or more, and was not an amount required to be incurred by a law or court order, or an amount of salary or wages

Note: Labels **X** and **Y** only relate to prepaid business expenditure where all of the above apply.

Print **N** for No at label **T** if the partnership or trust did not have prepaid expenditure where all of the above apply. Do not complete labels **X** and **Y**. However, a reconciliation adjustment may be needed at item 5, label **B—Expense reconciliation adjustments** if the partnership or trust had other prepaid expenditure. Some of the terms used are explained in the following paragraphs.

A small business taxpayer is a taxpayer who carries on a business during the income year and whose average turnover for that year is less than \$1 million. Average turnover for an income year is the average of the group turnovers for that year and the previous 2 years, if any. However, the partnership or trust can only average the years in which it carried on a business. For example, if it carried on a business for the current and previous year only, it would average only the sum of the group turnovers for those 2 years.

The partnership or trust is taken to be carrying on a business in an income year if it is winding up a business it formerly carried on and was a small business taxpayer at the time it stopped carrying on the business.

In working out group turnover for an income year, the partnership's or trust's turnover must be grouped with the turnover of each entity it controls or is controlled by.

Separate prepayment rules apply to STS taxpayers, small business taxpayers who do not enter the STS, deductible non-business expenditure and prepayments made under either a tax shelter arrangement or a plantation forestry managed agreement. Refer to the publication, *Deductions for prepaid expenses* for a detailed explanation of all the prepayment rules.

The term 'tax shelter' broadly refers to certain managed investments where, under the arrangement, allowable deductions in the expenditure year exceed assessable income from the arrangement in that year. Prepaid expenses incurred under tax shelter arrangements entered into after 1.00 p.m. (by legal time in the ACT) on 11 November 1999 are subject to specific rules. Refer to the publication, *Deductions for prepaid expenses* for a more detailed explanation of tax shelter arrangements and the prepayment rules.

A plantation forestry management agreement broadly refers to a managed investment entered into for the purposes of planting and tending trees for felling. See *Deductions for prepaid expenses* for a more detailed explanation of plantation forestry management agreements and the prepayment rules.

Initial year 13 month prepaid expenses

If the 21 September 1999 prepayment changes applied to the partnership's or trust's prepaid business expenditure incurred in the year of income which included 21 September 1999 (the 1999–2000 income year for most taxpayers), the amount to show at label **X** is the part of that prepaid expenditure that relates to a later income year. This amount is referred to as the 'cap' because it sets the limit on the amount of prepaid business expenditure that may be eligible for concessional treatment under transitional rules. For an explanation of the transitional rules and how to calculate the cap, see *Deductions for prepaid expenses*.

Show at label **X** the amount of the cap established in the income year including 21 September 1999.

Note: If the partnership or trust was required to complete this label in the 2000–01 tax return, the amount to show at label **X** in the 2001–02 tax return is the same amount that was shown at label **X** in the 2000–01 tax return. If in the year of income which included 21 September 1999, the partnership or trust did not have a prepayment affected by the 21 September 1999 changes, the amount to show at label **X** is nil.

Later year 13 month prepaid expenses

Show at label **Y** the part of the partnership's or trust's prepaid expenses incurred in the 2001–02 income year that relates to a later year and which is affected by the 21 September 1999 changes. This amount is known as the 'later year amount'. It is the difference between the expenditure and the part that relates to things to be done within the 2001–02 income year.

Refer to the publication, *Deductions for prepaid expenses* for a detailed explanation of how the later year amount is calculated.

Where expense labels at item 5—Business income and expenses include prepaid expenses that differ from the amounts allowable as deductions in the 2001–02 income year, ensure that a reconciliation adjustment is made at item 5, label **B—Expense reconciliation adjustments**.

56 Medicare levy reduction or exemption 

A trustee only needs to complete this item if **ALL** of the following conditions apply:

- the trustee is liable to be assessed on a share of the net income of the trust to which a beneficiary who is under a legal disability is presently entitled
- that beneficiary's share of the net income of the trust is more than the relevant threshold amount for the Medicare levy as set out in Part A of Question M1 in *TaxPack 2002*—either the relevant threshold amount for all other taxpayers or, if eligible, the relevant threshold for persons eligible for the Senior Australians tax offset, and

- that beneficiary qualifies for an exemption or reduction in the Medicare levy under one of the categories set out in item M1 of *TaxPack 2002*.

If there is more than one such beneficiary, attach a statement to the Trust tax return setting out the information required at item 56 for each additional beneficiary. Print Yes in the Have you attached any 'other attachments'? box on page 1 of the Trust tax return.

Spouse's taxable income

Show at label **A** the taxable income for the 2001–02 income year of the beneficiary's spouse. If the beneficiary had no spouse or had a spouse who had no taxable income, print zero (0) at label **A**.

Number of dependent children and students

Show at label **B** the number of the beneficiary's dependent children and students—if any.

Labels C and D

For details of the various Medicare levy exemption categories refer to *TaxPack 2002*.

Full levy exemption

Show at label **C** the number of days in the 2001–02 income year for which the beneficiary was entitled to the full Medicare levy exemption. If you have completed label **C** and the beneficiary has been issued with a Medicare exemption certificate, print **C** in the CODE box.

Half levy exemption

Show at label **D** the number of days during the 2001–02 income year for which the beneficiary was entitled to a half Medicare levy exemption.

Medicare levy on income to which no beneficiary is presently entitled

Where 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, to which no beneficiary is presently entitled, the Medicare levy may also be payable.

If a trustee is assessed on part or all of the net income of a trust and is liable to pay tax on all of the income so assessed at the top marginal tax rate, the Medicare levy at 1.5 per cent of the net income is also payable.

In other situations, if the net income assessed to the trustee:

- is \$416 or less, no Medicare levy is payable
- is in the range of \$417 to \$450, the Medicare levy is 20 per cent of the excess over \$416
- is more than \$450, the Medicare levy is 1.5 per cent.

In a trust of a deceased person, no Medicare levy is payable on that part of the net income of the trust to which no beneficiary is presently entitled.

Medicare levy on income to which a beneficiary under a legal disability is presently entitled

The Medicare levy is payable where a trustee is assessed on that part of the trust net income to which a beneficiary who is under a legal disability is presently entitled. It is payable if the levy would have been payable by the beneficiary had that part of the net income been the taxable income of the beneficiary.

No Medicare levy is payable by a trustee assessed on so much of the trust net income to which a beneficiary under a legal disability is presently entitled where that amount is less than relevant threshold amount for the Medicare levy as set out in Part A of Question M1 in *TaxPack 2002*—either the relevant threshold amount for all other taxpayers or, if eligible, the relevant threshold amount for persons eligible for the Senior Australians tax offset

Most trustees need not supply any information relating to the Medicare levy. However, some—see page 52—need to complete the Medicare levy reduction or exemption items on page 5 of the Trust tax return so that either no levy or a reduced levy is charged.

Medicare levy surcharge

Where the beneficiary's share of the trust net income to which a trustee is assessed under section 98 exceeds either \$50 000 (if single) or the family surcharge threshold—see item M2 of *TaxPack 2002*—and the trustee is liable for the Medicare levy surcharge (MLS), include a separate statement showing the details listed below, sign it and attach it to the Trust tax return. Print—Yes in the Have you attached any 'other attachments'? box on page 1 of the tax return. The details are:

- trust name
- trust TFN
- number of days liable for MLS
- full name of taxpayer's spouse—if applicable
- spouse's taxable income—if applicable
- number of dependent children—if applicable
- membership number—if applicable
- health fund identification (ID) code—if applicable.

Note: The definition of dependant for the purposes of MLS differs from the definition of dependant for other tax purposes. The taxpayer's and their spouse's taxable income for MLS purposes must be calculated ignoring the exemption under section 271-105 of Schedule 2F to ITAA 1936 for distributions on which Family Trust Distribution (FTD) tax has been paid. For more information about the circumstances in which FTD tax is payable see page 14.

57 Statement of distribution P

The distribution statement must show only Australian source income or loss, as shown at item 17—Net Australian income or loss on the Partnership tax return.

If the following persons or entities are partners, and the partnership claimed a deduction in respect of a LIC capital gain amount, the partnership is required to advise these partners of their share of the deduction claimed by the partnership for the LIC capital gain amount:

- non resident individual
- trustee of a trust
- trustee of a superannuation entity
- company (including a life insurance company) and
- partnership.

The distribution of the net Australian income or loss is shown in each partner's return at:

Individuals

- item 12—Partnerships and trusts

Companies

- item 6—Calculation of total profit or loss

Trusts

- item 8—Partnerships and trusts

Do not show capital gains, attributed foreign income, foreign source income or foreign tax credit on the distribution statement. Record and distribute these separately, keeping details for your records.

Include this income or credit in each partner's own tax return at the following:

Individuals

- item 17—Capital gains
- item 18—Foreign entities
- item 19—Foreign source income
- item 19—Foreign tax credits, label O.

Companies

- item 7—Reconciliation to taxable income or loss
- Calculation statement—Foreign tax credits.

Trusts

- item 18—Capital gains
- item 19—Attributed foreign income
- item 20—Other assessable foreign source income.

For more information on capital gains refer to the publication *Guide to capital gains tax*.

If the number of partners exceeds 5

For paper returns, if the total number of partners is more than 5, list the details in each column as requested for 4 of the partners. The distributions to the rest of the partners must be summarised and included as the 5th line.

On the 5th line print *Summary* in column 1 and show the tax agent's address instead of the partner's address. In the other columns show summarised totals for the additional partners.

Attach a list to the Partnership tax return showing the details of each additional partner in the same format as the statement of distribution. Print Yes in the Have you attached any 'other attachments'? box on page 1 of the tax return.

Column headings

Column 1:

Show the full name and TFN of each partner. If the TFN is not shown then show the partner's address for the service of notices. Where the partner is a trustee show the name and TFN of the trust.

Column 2:

Show each partner's share of income in whole dollars only. Separate into primary production income and non-primary production income. If a loss is distributed print **L** after the amount.

Column 3:

Show each partner's share of credit for amounts withheld where an ABN was not quoted. The total of column 3 equals the sum of any credit claimed at:

- item 6, label **T—Tax withheld where ABN not quoted** and
- item 8, label **C—Share of credit for tax withheld where ABN not quoted**.

Column 4:

Show each partner's share of imputation credit for franked dividends. The total of column 4 should agree with the sum of imputation credit claimed at:

- item 8, label **D—Share of imputation credits from franked dividends** and
- item 11, label **M—Imputation credit**.

Column 5:

Show each partner'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 tax file number (TFN). The total of column 5 should agree with the sum of TFN amounts withheld on interest, dividends and unit trust distribution at:

- item 8, label **E— Share of credit for TFN amounts withheld from interest and dividends**
- item 10, label **I—TFN amounts withheld from gross interest** and
- item 11, label **N—TFN amounts withheld from dividends**.

Real and effective control of share in partnership income

If a partner aged 18 years of age or more does not have real and effective control and disposal of their share of income, then further tax is payable by the partner.

Real control depends on the constitution and control of the partnership and the conduct of its operations.

Broadly, a lack of real control exists where the partner must allow any part of their share of income to be dealt with in a particular way so that the partner cannot on their own, deal with it in another way.

Under special circumstances the Commissioner may treat a partner as having real control of a share of partnership income. If it is considered that this discretion is exercised, provide full details in support of the request. Print Yes in the Have you attached any 'other attachments'? box on page 1 of the Partnership tax return.

57 Statement of distribution

Is a beneficiary named at item 57 a trustee beneficiary?

Trustees of closely held trusts with trustee beneficiaries presently entitled to a share of net income or tax-preferred amounts, print **Y** for Yes at label **W**. If **Y** is shown at label **W**, the completion and lodgment of an *Ultimate beneficiary schedule* will only be required where:

- the trustee has a UBNT liability for the year under consideration; or
- the Commissioner requests a UB statement.

Instructions for completion are given on the schedule.

For more information on the Ultimate beneficiary schedule and the disclosure requirements for trustees in respect of ultimate beneficiaries refer to appendix 13—Ultimate beneficiary non-disclosure tax, on page 96.

Has the trust received an ETP?

Do not show death benefit ETPs on the distribution statement. 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 and the extent that dependants of the deceased benefit from the estate. For more information on ETPs see page 36.

Has the trust received a listed investment company (LIC) capital gain amount?

If the following persons or entities are beneficiaries, and the trust claimed a deduction in respect of a LIC capital gain amount, the trust is required to advise these beneficiaries of their share of the deduction claimed by the trust for the LIC capital gain amount:

- non-resident individual
- trustee of a trust
- trustee of a superannuation entity
- company (including a life insurance company) and
- partnership.

Is a beneficiary presently entitled?

Where resident beneficiaries are presently entitled to a share of the income of a trust and are not under any legal disability, it is the beneficiaries who are assessable on their share of the net income of the trust, not the trustee.

A beneficiary is deemed to be presently entitled to income of a trust 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 by someone else. 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.

Is the beneficiary not presently entitled?

That part of the net income of the trust at item 23—Total net income or loss, to which no beneficiary is presently entitled and in which no beneficiary has an indefeasible vested interest, is included at the bottom of the distribution statement at the question, Income to which no beneficiary is presently entitled.

The trustee also prints **Y** for Yes to the item—Is any tax payable by the trustee? on page 1 of the Trust tax return.

Except for the first three years for deceased estates—which are taxed at the general individual rates, see page 95—a trustee is assessable under section 99A of the ITAA 1936 and is liable to pay tax at the maximum rate of personal income tax on income to which no beneficiary is presently entitled. There is discretion not to apply this provision to a trust 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 or
 - as a result of a family breakdown.

If this discretion is exercised, the trustee is not liable to pay tax at the maximum rate of personal income tax on the income to which no beneficiary is presently entitled. Rather, the trustee pays tax at progressive or shaded-in rates. For trusts—other than for the first three years for deceased estates which are taxed at the general individual rates, see page 95—these shaded-in rates are:

Table 18

Share of net income \$	Tax on column 1 \$	% on excess (marginal rate)
416	Nil	50
631	107.27	17
20 000	3 400.00	30
50 000	12 400.00	42
60 000	16 600.00	47

If the Commissioner's discretion is to be exercised, full details are to be submitted in support of the request, together with:

- 1 Details of the balance sheet capital accounts.
- 2 Where 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, and whether those rights have been exercised during the year.
- 3 Where 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. To obtain the Commissioner's discretion, 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. Where 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.
- 4 Where 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, state the full name and address of the person and the family relationship, if any, of that person to the beneficiaries.
- 5 The 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.

The information required under 2 to 6 need not be supplied if it has already been sent in an application for exercise of the Commissioner's discretion for income included in an earlier income year's tax return. However, a

statement advising whether or not any material changes have occurred since the information was furnished must accompany the Trust tax return if the discretion is exercised for any income included in the tax return being lodged.

Print Yes in the 'Have you attached any other attachments?' box on page 1 of the Trust tax return.

Capital gains reduced by the CGT discount and/or the small business 50 per cent reduction where no beneficiary is presently entitled

If the trustee is assessable under section 99A of the ITAA 1936 on net income, capital gains included in that part of the trust's net income are ineligible for the CGT discount and the small business 50 per cent reduction (see section 115-225 of the ITAA 1997).

To the extent the trust's net income, to which no beneficiary is presently entitled, includes a capital gain to which either the CGT discount or the small business 50 per cent reduction has been applied, 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.

To the extent the trust's net income, to which no beneficiary is presently entitled, includes a capital gain to which both the CGT discount and the small business 50 per cent reduction has been applied, work out the amount assessable to the trustee under section 99A as if the part attributable to the capital gain was 4 times the amount it actually is.

Attach a separate statement to the Trust tax return showing details of the amount assessable under section 99A using the above method.

Print Yes in the Have you attached any 'other attachments'? box on page 1 of the tax return.

Is the trust a deceased estate?

In the case of a trust created as a result of the death of a person, for the first 3 trust tax returns lodged the income to which no beneficiary is presently entitled is taxed to the trustee at general individual tax rates, with the benefit of the full tax-free threshold of \$6000.

Thereafter, this income reverts to being taxed at progressive or shaded-in rates of tax as shown on page 55 if the Commissioner's discretion is exercised.

If the Commissioner's discretion is to be exercised for a deceased estate, the information mentioned in 2 to 6 is given about the person as a result of whose death that trust arose.

Completing item 57

The total of the income columns—columns 4, 8, 9 and 10 on this statement—equals the amount at item 23—Total net income or loss—except in the case of certain ETPs, as covered on page 36.

Note: Where 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 paid/withheld, or
- franked dividends

attach a statement highlighting this giving the information requested at item 26—Overseas transactions.

A trust cannot distribute an overall trust loss.

If the number of beneficiaries exceeds 4

For paper returns, if there are more than 4 beneficiaries list the details in each column for 3 of the beneficiaries. The distributions to the remainder must be summarised and included as the 4th line.

On the 4th line print *Summary* in column 1 and show the tax agent's address instead of the beneficiary's address. In the other columns show summarised totals for the additional beneficiaries.

Attach a list to the Trust tax return showing the details of each additional beneficiary in the same format as the statement of distribution. Print 'Yes in the Have you attached any 'other attachments'? box on page 1 of the tax return.

Column headings

Column 1:

Show the full name and TFN of each beneficiary entitled, presently entitled or having an indefeasible and vested interest. If the TFN is not shown then show the beneficiary's address for the service of notices. Where the beneficiary is a trustee show the name and TFN of the trust.

Column 2:

If the beneficiary is under 21 years of age as at 30 June 2001 show their date of birth.

Column 3:

Insert an assessment calculation code for each beneficiary where the beneficiary is presently entitled to a

share of the income of a trust and also against income to which no beneficiary is presently entitled and in which no beneficiary has an indefeasible vested interest. For more information on trustee assessment calculation codes see appendix 14—Trust assessment codes on page 97.

Bankrupt estates are lodged under assessment calculation code 37.

Note: Show each beneficiary's share in whole dollars only.

Column 4:

Separate income into primary production income and non-primary production income. If a loss is distributed print **L** after the amount.

A loss is only shown for a component—that is, primary production or non-primary production—of an overall trust distribution. The trust cannot distribute an overall trust loss.

Column 5:

Show each beneficiary's share of credit for tax withheld where an ABN was not quoted. The total of column 5 equals the sum of any credit shown on the Trust tax return at:

- item 6, label **T—Tax withheld where ABN not quoted** and
- item 8, label **C—Share of credit for tax withheld where ABN not quoted**.

Column 6:

Show each beneficiary's share of imputation credit for franked dividends. The total of column 6 should agree with the sum of imputation credit claimed on the Trust tax return at:

- item 8, label **D—Share of imputation credits from franked dividends** and
- item 11, label **M—Imputation credit**.

Column 7:

Show each beneficiary's share of credit for tax withheld on interest, dividends and unit trust distributions by investment bodies as a result of the requirement to quote a TFN. The total of column 7 should agree with the sum of TFN amounts withheld on interest, dividends and unit trust distributions at:

- item 8, label **E—Share of credit for TFN amounts withheld from interest and dividends**
- item 10, label **I—TFN amounts withheld from gross interest** and
- item 11, label **N—TFN amounts withheld from dividends**.

If the trust has no net income, the beneficiaries do not have a share of credit for the TFN amounts withheld. Instead the sum of the TFN amounts is to be shown in Column 7 at the bottom of the distribution statement at Income to which no beneficiary is presently entitled.

Column 8:

Show each beneficiary's share of net capital gain. The total of column 8 should agree with item 18, label **A—Net capital gain**. To complete their own tax returns and meet their capital gains tax obligations, beneficiaries need the following information:

- 1 A dissection of the net capital gain distributed by the trust for the 2001-02 income year to the extent that it comprises an amount attributable to the following:
 - Capital gains from collectables, for each of the following methods of calculation:
 - Indexation
 - CGT discount
 - Other method
 - Capital gains to which the small business 50 per cent active asset reduction was applied, for each of the following methods of calculation:
 - Indexation
 - CGT discount
 - Other method
 - All other capital gains, for each of the following methods of calculation:
 - Indexation
 - CGT discount
 - Other method.
- 2 Details of any non-assessable payment made in the 2001-02 income year in respect of an interest in the trust (CGT event E4 section 104-70 of 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 ITAA 1997)
 - tax-free amounts (subsection 104-71(3) of ITAA 1997)
 - CGT concession amounts (subsection 104-71(4) of ITAA 1997)
 - tax-deferred amounts – associated with the small business 50per cent active asset reduction, frozen indexation, building allowance and accounting difference in income.

To help a trustee record the information at Column 1 on page 56 see Worksheet 7—Distribution of net capital gain from a trust on page 66.

For information regarding the small business concessions refer to the publication *Capital gains tax concessions for small business*. For more information about capital gains tax refer to the publication *Guide to capital gains tax*.

Column 9:

Show each beneficiary's share of attributed foreign income. The total of column 9 should agree with the sum of any attributed foreign income shown at item 19—Attributed foreign income on the Trust tax return.

Column 10:

Show each beneficiary's share of other assessable net foreign source income. The total of column 10 should agree with the amount of net foreign source income shown at item 20, label **V—Net** on the Trust tax return.

Column 11:

Show each beneficiary's share of foreign tax credit. The total of column 11 should agree with the amount of foreign tax credit claimed at item 20, label **Z—Foreign tax credits** on the Trust tax return.

Non-resident beneficiaries—additional information**Column 12:**

Where Assessment Calculation Code 139—certain non-resident company beneficiaries—has been input at column 3, an amount must be inserted in column 12.

Show the assessable amount under subsection 98(3) of ITAA 1936 where the trustee is assessable on behalf of a non-resident company beneficiary on a share of the net income of the trust. Generally for non-resident beneficiaries who have been non-resident for the entire year the assessable amount, will exclude income subject to non-resident withholding tax and fully franked dividends, but will include all other Australian source income, including capital gains.

If the share of the net income assessed to the trustee under subsection 98(3) includes a discounted capital gain made by the trust estate, the assessable amount includes double the discounted capital gain (refer to section 115–220 of 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.

Where the beneficiary is a non-resident at the end of the year but has not been a non-resident for the entire year, show clearly in a separate schedule full details of the share of net income for the year. The amount to show in column 12 will include the additional capital gain amount under section 115–220, the beneficiary's share of net income from the trust attributable to the period that the beneficiary was a resident as well as the beneficiary's

share of the net income attributable to Australian sources for the period the beneficiary was a non-resident. It will exclude income subject to non-resident withholding tax and fully franked dividends for the period the beneficiary was a non-resident.

Column 13:

Where Assessment Calculation Code 138—certain non-resident beneficiaries—has been input at column 3, an amount must be inserted in column 13.

Show the assessable amount under subsection 98(4) of ITAA 1936 where the trustee is assessable on behalf of a non-resident beneficiary not under a legal disability on a share of the net income of the trust. Generally for non-resident benefit beneficiaries who have been non-resident for the entire year the assessable amount will exclude income subject to non-resident withholding tax and fully franked dividends, but will include all other Australian source income, including capital gains.

Where the beneficiary is a non-resident at the end of the year but has not been a non-resident for the entire year, it is important to provide the information set out at item 26, label **A—Non-resident beneficiaries** so that the appropriate tax rates can be applied. The amount to show in column 13 will include the beneficiary's share of net income from the trust attributable to the period that the beneficiary was a resident as well as the beneficiary's share of net income attributable to Australian sources for the period the beneficiary was a non-resident. It will exclude income subject to non-resident withholding tax and fully franked dividends for the period the beneficiary was a non-resident.

Worksheet 3 Reconciliation statement

Reconciliation items are those items that reconcile net profit or loss as per the profit and loss statement with the net income or loss for income tax purposes of the partnership or trust. This statement is not an exhaustive list of reconciliation adjustments.

	Primary production income \$	Non-primary production income \$
A Net profit or loss as per profit and loss statement	[] / []	[] / []
<i>Additions:</i>		
B Income reconciliation adjustments—see below	[] / []	[] / []
C Expense reconciliation adjustments—see page 62	[] / []	[] / []
<i>Subtraction:</i>		
D Drought investment allowance	[]	[]
E Net income (A + B + C) – D	[] / []	[] / []

Note: The additions at **B** and/or **C** may be negative amounts which will reduce the net income.
The amounts shown for net income at **E** must agree with labels **Q** and **R** at item 5 on the tax return

Income reconciliation adjustments

Income add backs: Amounts not shown in the accounts which are assessable income.

F Assessable balancing adjustment amounts on depreciating assets	[]	[]
G Any excess of the tax value of closing stock over the tax value of opening stock (Non-STs taxpayers)	[]	[]
H Other assessable income not included in the profit and loss statement	[]	[]
I Subtotal (F + G + H)	[]	[]

Income subtractions: Income shown in the accounts which is not assessable.

J Profit on the sale of depreciating assets shown in the accounts	[]	[]
K Personal services income included in the assessable income of an individual (attributed amount)	[]	[]
L Other income shown in the profit and loss statement which is not assessable for tax purposes—for example, gross exempt income	[]	[]
M Total I – (J + K + L)	[] / []	[] / []

Note: The net total of the primary production and non-primary production amounts at **M** must agree with the amount shown at label **A**—**Income reconciliation adjustments** on the tax return. Where the net total is a negative amount, print L in the box to the right of label **A** on the tax return.

Expense reconciliation adjustments

Expense add backs: Expenses shown in the accounts which are not tax deductible.

	Primary production income \$	Non-primary production income \$
N Depreciation charged in accounts (Non-STS taxpayers)	<input type="text"/>	<input type="text"/>
O Loss on the sale of depreciating assets	<input type="text"/>	<input type="text"/>
P Other items not allowable as a deduction: <ul style="list-style-type: none"> • capital expenditure • additions to provisions and reserves • debt deductions denied by thin capitalisation provisions • income tax expense • non-deductible expenses relating to personal services income not gained in the course of conducting a personal services business • hire purchase payments • luxury car lease payments • penalties and fines • part of prepaid expenses not deductible this year • expenses relating to exempt income • other non-deductible expenses 	<input type="text"/>	<input type="text"/>
Q Subtotal (N + O + P)	<input type="text"/>	<input type="text"/>

Expense subtractions: Items not shown as expenses which are tax deductible.

R Deduction for decline in value of depreciating assets (Non-STS taxpayers)	<input type="text"/>	<input type="text"/>	
S Deductible balancing adjustment amounts on depreciating assets	<input type="text"/>	<input type="text"/>	
T Any excess of the tax value of opening stock over the tax value of closing stock (Non-STS taxpayers)	<input type="text"/>	<input type="text"/>	
U Other tax deductible items: <ul style="list-style-type: none"> • other amounts deductible under the uniform capital allowances system • hire purchase agreements—interest component • luxury car leases—accrual amount • part of prepaid expenses deductible this year, but not shown in accounts • other deductible items (exclude drought investment allowance, that is included at D of this worksheet) 	<input type="text"/>	<input type="text"/>	
V Total Q – (R + S + T + U)	<input type="text"/>	<input type="text"/>	<input type="text"/>

Note: The net total of the primary production and non-primary production amounts at **V** must agree with the amount shown at label **B**—**Expense reconciliation adjustments** on the tax return. Where the net total is a negative amount, print **L** in the box to the right of label **B** on the tax return.

Worksheet 5 Interest

Who paid the interest	Branch	Account number	Total amounts withheld from interest	Amount of interest
Total 1				00
Less withheld TFN amounts already refunded 2				
Net TFN amounts withheld from interest—take 2 from 1				
				Put the total at item 10 label J
				Put the total at item 10 label I

Worksheet 6 Dividends

Name of company	Unfranked amount	Franked amount	Imputation credit	Total TFN amounts withheld from dividends
Total	00	00	00	
				Less TFN amounts withheld already refunded
				Net TFN amounts withheld from dividends
				00
				Put the total at item 11 label N
				Put the total at item 11 label M
				Put the total at item 11 label L
				Put the total at item 11 label K

Appendix 1 Dividends

An imputation system for taxing dividends paid by Australian resident companies has applied since 1 July 1987. Dividends (including non-share dividends) paid by resident companies, which have paid sufficient Australian tax, carry a tax offset entitlement for resident holders. These dividends are known as franked dividends.

Franked dividends paid to a partnership or trust generally flow through to the partners or beneficiaries who are entitled to a tax offset if they are resident individuals, or a franking credit if they are resident companies, on the basis of the imputation credits distributed to them.

The total amount of dividends received or credited, and the imputation credit, is included in the assessable income of the partnership or trust to determine the relevant net income or loss.

Franking credit trading

For the imputation credits to flow through to the partners or beneficiaries, both they and the partnership or trustee 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 where 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 have at least 30 per cent of the risks of loss and opportunities for gain associated with the shares, or interest in the shares.

Qualification period

If the taxpayer does not have an obligation to make a related payment in relation to a dividend (generally one passing the benefit of the dividend to another), the qualification period in respect of that dividend is the period commencing the day after the relevant shares or interests are acquired, until 45 days—90 days for 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 commencing 45 days—90 days for preference shares—before the shares go ex-dividend and ending 45 days—90 days for 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 7.30 p.m. AEST on 13 May 1997—and the related payments rule applies to arrangements entered into after 7.30 p.m. AEST on 13 May 1997.

Beneficiaries of trusts, other than family trusts and deceased estate trusts, are not entitled to franking benefits or the intercorporate dividend tax offset from shares acquired by the trust after 3.00 p.m. AEDT on 31 December 1997, (other than shares which the trustee was contractually obliged to acquire before that time, certain bonus shares, and certain shares distributed in specie by another partnership or trust) unless they hold a sufficient fixed interest in their proportionate interest in the shares that exposes them to at least 30 per cent of the risks and opportunities of owning the shares.

As an alternative to complying with the 45 day holding period rule, certain taxpayers—including the trustees of listed widely held unit trusts, unlisted very widely held unit trusts, superannuation funds, approved deposit funds, pooled superannuation trusts and the statutory funds of life insurance companies—can elect to have a franking tax offset ceiling applied by reference to franking tax offsets on a benchmark portfolio. Certain investment vehicles primarily held by such taxpayers are also included.

General anti-avoidance rule

Section 177EA of ITAA 1936 is a general anti-avoidance rule against franking credit trading and streaming that applies where one of the purposes of an arrangement—other than an incidental purpose—is to obtain a tax advantage in relation to franking credits. This rule, which was introduced by the—*Taxation Laws Amendment Act (No 3) 1998*, applies to dividends or distributions paid after 7.30 p.m. AEST on 13 May 1997, under certain arrangements having the requisite purpose.

For more information refer to the publication *You and your shares*.

Imputation credit

The imputation credit is shown at:

- item 11, label **M—Imputation credit**, if received directly from a paying company
- item 8, label **D—Share of imputation credit from franked dividends**, when received indirectly through another partnership or trust.

Do not show the imputation credit if the trustee or partnership was not a qualified person—see above—in relation to the dividend.

Expenses claimed against earning dividend income are shown at item 14—Deductions relating to Australian investment income.

P In certain cases, no beneficiary is presently entitled to some or all of the income of the trust, thus the trustee is liable to pay tax on that trust income. In such cases, the trustee—providing it is a qualified person in relation to the dividend—is entitled to a tax offset for the amount, or proportional amount, of the imputation credit.

The share of the partnership's net income or loss distributed to a resident partner, or the share of the trust's net income assessable to a resident beneficiary, is shown in the partner's or beneficiary's own tax return.

Where that share includes some or all of the franked dividends paid to the partnership or trust, the partner or beneficiary who is a resident individual is entitled to a tax offset equal to their share of imputation credits attached to the franked dividends, undiminished by the expenses of the partnership or trust.

For more information on the circumstances in which the franked dividends and imputation credits received by a trust flow through to the beneficiaries, refer to *Taxation ruling TR 92/13*.

Note that the entitlement of a partner to a share in the allowable imputation credits of the partnership is directly proportional to the partner's share in the net income of the partnership. The principles set out in *Taxation ruling IT 2125* are applied to determine each partner's proportional share.

For the imputation credits to flow to a partner or beneficiary, both the partner or beneficiary and the partnership or trustee must be qualified persons (satisfying the holding period and related payments rules).

A partner or beneficiary that is a resident company and receives some or all of the franked dividends paid to a partnership or trust, is entitled to a franking credit for its share of imputation credits attached to those dividends, undiminished by the expenses of the partnership or trust. The company is allowed a special deduction so that the imputation credit is effectively excluded from its share of the partnership's net income or loss, or the trust's net income. The deduction is the potential tax offset as it relates to the distribution made by the partnership or trust to the company as a partner or beneficiary.

Non-resident partners and beneficiaries

Non-resident partners and non-resident presently-entitled beneficiaries are not liable to pay any Australian tax on franked amount of dividends. Dividends that are not franked—and the unfranked part of dividends that are partially franked—are subject to withholding tax.

Share traders

Traders of shares (including non-share equity interests) who operated as a partnership or trust and received dividends during the income year show these at item 11—Dividends.

Exempt dividends

Keep supporting records if the partnership or trust claims that the whole or part of any dividend, bonus share issue or other distribution is exempt from tax—for example, because FTD tax has been paid on the amount. For more information see pages 9 and 14.

Foreign source dividends

Foreign source dividends are not subject to the imputation rules, however they are included in the assessable income of the partnership or trust. If the partnership or trust receives foreign source dividends, include these amounts at item 20—Other assessable foreign source income.

Unfranked dividends

Unfranked dividends include the unfranked amount of partially franked dividends.

Interest paid to non-residents **P**

Interest paid includes amounts in the nature of interest. If the partnership paid or credited any amounts in the nature of interest to a non-resident of Australia or has received unfranked dividends and/or interest on behalf of a non-resident of Australia, attach a statement to the Partnership tax return showing the amount paid, credited or received on behalf of the non-resident and whether withholding tax was deducted. If it was not deducted, state why. Print Yes in the Have you attached any other attachments? box on page 1 of the tax return. For more information on Other attachments to the tax return see page 7.

Appendix 2 Royalties

Royalties include considerations 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 and 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.

Royalties derived by an Australian resident are shown 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 per cent, however where there is a double tax agreement the rate may be reduced to 10 per cent.

For more information on the definition of royalty refer to *Taxation Ruling IT 2660*.

Record retention—If the partnership or 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 apply to reduce certain expenditure (called 'debt deductions') incurred in obtaining and servicing debt where the debt used to finance the Australian operations of a partnership or 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.

Do the thin capitalisation rules apply?

- P** Subject to two exclusions listed below, the thin capitalisation rules will apply to a partnership if:
- (a) the partnership has at least one partner which is an Australian resident (an Australian partnership) and either:
 - (i) the partnership, or any of its associate entities, is an Australian controller of a foreign entity (explained below) or carries on business overseas at or through a permanent establishment, or
 - (ii) that partnership is foreign controlled, either directly or indirectly (see below), or
 - (b) the partnership does not have any partners that are Australian residents and the partnership carries on business in Australia at or through a permanent establishment or otherwise has assets that produce assessable income.

- T** Subject to two exclusions listed below, the thin capitalisation rules will apply to a trust if:
- (a) the trust is an Australian trust as defined in section 338 of the ITAA 1936, and either:
 - (i) the trust, or any of its associate entities, is an Australian controller of a foreign entity (explained below) or carries on business overseas at or through a permanent establishment. or
 - (ii) the trust is foreign controlled, either directly or indirectly (see below), or
 - (b) the trust is a foreign resident and carries on business in Australia at or through a permanent establishment or otherwise has assets that produce assessable income

Exclusions

- P** and **T** The thin capitalisation rules will **NOT** apply if:
- the partnership's or trust's debt deductions (combined with the debt deductions of its associate entities) do not exceed \$250 000 in the income year, or
 - in the case of an Australian partnership or an Australian trust which is not foreign controlled, the combined value of the partnership's or trust's Australian assets and the Australian assets of its associates comprise at least 90 per cent of the value of the total assets of the partnership or trust and those associates.

Control

P and **T** The rules measuring control take into account both direct and indirect interests that the partnership or trust holds in the other entity (or vice-versa), and the direct and indirect interests that associate entities of the partnership or trust hold in the other. This means that an Australian partnership or an Australian trust can be an Australian controller of a foreign entity even if it holds a direct interest of less than 50 per cent in the foreign entity. Additionally, an Australian trust is foreign controlled where a foreign entity is in a position to control the trust.

What if the thin capitalisation rules apply?

If the thin capitalisation rules apply to the partnership or trust, or further information is required, please see the *Guide to thin capitalisation*. If the thin capitalisation rules apply, the partnership or trust must complete the Thin capitalisation schedule. Send the completed schedule to:

Australian Taxation Office
PO Box 1365
ALBURY NSW 2640

Note:

Early Balancers: The thin capitalisation rules mentioned above apply to the first income year commencing on or after 1 July 2001. If the partnership or trust is completing the Partnership or Trust tax return in respect of an income year that commenced before 1 July 2001, the former thin capitalisation regime contained in Division 16F of Part III of the ITAA 1936 applies. If further information is required, please call the ATO on **13 2478**.

What if the thin capitalisation rules are breached?

If the thin capitalisation rules are breached, some of the partnership's or trust's debt deductions may be denied. The amount denied in relation to business income is shown in item 5, label **B—expense reconciliation adjustments**. If the partnership or trust incurred debt deductions in relation to other types of income—for example, rental income, dividend income or foreign income—the amount of deductions shown at the relevant labels must exclude the debt deductions denied.

Appendix 4 Commercial debt forgiveness

If a commercial debt owed by the partnership or trust is forgiven during the income year, the net amount of debts forgiven must be applied to reduce the partnership's or trust's deductible revenue losses, net capital losses, certain undeducted revenue or capital expenditure and the cost base of CGT assets, in that order.

A debt is a commercial debt if any part of the interest payable on the debt is or would be an allowable deduction, or would be a deduction if not for some specific exception provision. Where 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 partnership's or trust's obligation to pay the debt is released or waived or otherwise extinguished other than by payment of the whole debt in cash.

A debt is also forgiven if it is assigned by a creditor to an associate of the debtor or in certain other circumstances, or if the right to recover it ceases.

Calculation of net forgiven amount

The net forgiven amount is calculated as follows:

- Determine the notional value of the debt. In the general case, this is the lesser of:
 - the value of the debt at the time of forgiveness—assuming the partnership or trust was solvent at the time the debt was incurred and the partnership's or trust's creditworthiness has not changed from the time the debt was incurred, and
 - the value of the debt at the time the debt was forgiven as above, also assuming that any market variables remain constant, plus any amounts allowable as deductions on termination of the debt attributable to changes in market variables. This would 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—refer to Division 243 and sections 245-60 and 245-61 of Schedule 2C to ITAA 1936.

- Calculate the gross forgiven amount of the debt by deducting from the notional value of the debt any amount of consideration in respect of the forgiveness. This consideration normally is the sum of the amounts of money the partnership or 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 in respect of the forgiveness where a debt is forgiven in exchange for shares, where there are debt parking circumstances, or where money or property is applied for the benefit or at

the direction of the creditor—refer to Division 243 and sections 245-65 and 245-70 of Schedule 2C to ITAA 1936.

3 The gross forgiven amount is then reduced by any amount:

- which has, is or will be included in the partnership's or trust's assessable income as a result of the forgiven debt;
- by which a deduction otherwise allowable to the partnership or trust has been or will be reduced as a result of the forgiven debt; and
- by which the cost base to the partnership or trust of any CGT asset has been or will be reduced, as a result of the forgiveness of the debt except for a reduction under Division 139 of the ITAA 1997—dealing with value shifting through debt forgiveness between companies under common ownership.

4 The balance remaining is the net forgiven amount of that debt. The net forgiven amount is then added to the net forgiven amounts of other debts forgiven during the income year to arrive at the total net forgiven amount in respect of the income year.

Application of total net forgiven amount

This total net forgiven amount is applied, in order, in the reduction of the following classes of the partnership's or trust's:

- deductible revenue losses
- deductible net capital losses
- deductible expenditure and
- cost bases of certain CGT assets.

Within the relevant class, the partnership or trust may choose the relevant 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 class. Once the total net forgiven amount is applied against all the amounts in a class, any excess is applied, in the above order, against the next class. If there is an excess remaining after applying the amount to the maximum extent possible against all classes, this excess is disregarded. However, see page 73 for special rules applying in the case of certain partnerships.

Deductible revenue losses are:

- tax losses
 - foreign losses of pre-1990 income years and
 - foreign losses of post-1989 income years,
- which were incurred by the partnership or trust in an earlier income year and are undeducted at the beginning of the forgiveness year.

Deductible net capital losses are unrecouped net capital losses incurred in income years before the forgiveness year.

Deductible expenditure is limited to expenditure incurred before the forgiveness year which remains undeducted but which, on conditions prevailing at the beginning of the forgiveness year, would be deductible in that year or future years.

The deductible expenditures are:

- cost of plant or articles used—or installed ready for use—to produce assessable income
- expenditure deductible under Division 40—uniform capital allowances—of the ITAA 1997
- expenditure on pooled Subdivision 46-D software
- expenditure incurred in borrowing money to produce assessable income
- expenditure on a telephone line on land on which a business of primary production is carried out
- expenditure in connecting or upgrading mains electricity facilities on land used or intended for use in producing assessable income
- expenditure on scientific research
- expenditure on R&D activities
- expenditure in connection with clearing and preparing land for primary production
- expenditure on establishing a grapevine
- expenditure on plant or structural improvements for conserving or conveying water
- expenditure on certain kinds of plant and equipment for use in very large development projects
- expenditure on study to evaluate the environmental impact of an income producing project
- advance revenue expenditure
- expenditure incurred in relation to mining or quarrying operations
- expenditure incurred on exploration or prospecting for minerals or quarry materials
- expenditure incurred in transporting minerals or quarry materials
- expenditure on forestry roads to an area of timber operations
- expenditure on timber buildings used for a timber milling business, if the buildings are in a forest or adjacent to a timber milling or timber felling area
- expenditure on acquiring a unit of industrial property to produce assessable income
- expenditure on acquiring an item of intellectual property to produce assessable income
- expenditure on Australian films
- expenditure on assessable income producing buildings and other capital works
- expenditure incurred in establishing horticultural plants
- expenditure incurred in obtaining a spectrum licence to produce assessable income.

There are 2 principal methods of reducing deductible expenditures:

- Where the deduction is calculated as a per centage of a base amount—for example, deductions for decline in value of depreciating assets calculated under the prime cost method—the reduction is made to the base amount. The effect is that deductions allowable in the forgiveness year and later years are reduced. Also, the total amount of deductions allowable in respect of the deductible expenditure 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.
- Where the deduction in respect of a particular deductible expenditure is a per centage, fraction or proportion of an amount worked out after taking into account any deductions in respect of the deductible expenditure previously allowed to the partnership or 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.

Where, as a result of the recoupment of a particular deductible expenditure, a provision of ITAA 1936 or ITAA 1997 applies to disallow any deductions previously allowed to the company in respect of the expenditure, the total net forgiven amount previously applied in the reduction of the recouped deductible expenditure is treated as assessable income in the year of recoupment.

Cost bases of certain CGT assets owned by the partnership or trust at the beginning of the forgiveness year—referred to as reducible assets—are the final category of amounts that may be reduced by the partnership's or 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 a disposal, happening to them.

Assets not treated as reducible assets include those for which a capital gain or capital loss will not or is unlikely to arise on a CGT event happening 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 ITAA 1997. Also excluded are CGT assets whose cost is deductible, for example depreciating assets.

The partnership or trust may choose the reducible assets whose cost bases are to be reduced and the extent of that reduction. However, the cost base of reducible assets that constitute investments in associates of the partnership or trust must be reduced last. When a partnership or trust chooses to apply an amount in reduction of the relevant cost bases of a particular reducible asset, then at any time after 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 accordingly.

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—refer to subsection 245-190(3) of Schedule 2C to ITAA 1936—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 reducible asset because the relevant cost base that is taken into account in determining the capital gain or capital loss must reflect that reduction.

Special rules **P**

Special rules apply where a partnership—other than a corporate limited partnership—has a total net forgiven amount, which cannot be fully applied in reduction of its classes of amounts set out above. Any part unable to be so applied is allocated to the partners in the proportion they share in the net income or loss of the partnership. The allocated amount is added to the individual partner's net forgiven amounts in calculating the partner's total net forgiven amount. Refer to Subdivision 245-F of Schedule 2C to ITAA 1936.

Appendix 5 Capital works deductions and other tax offsets

Capital works deductions

Division 43 of ITAA 1997 provides for a system of deducting capital expenditure incurred in the construction of capital works used to produce assessable income.

Capital works

Construction costs in respect of the following capital works may be deducted:

- 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 appendix 7—Uniform capital allowance on page 78.

Deductions for construction costs and structural improvements must be based 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 partnership or trust for the provision of this estimate are deductible as a tax related expense, not as an expense in gaining or producing assessable income.

Who can claim?

A deduction can only be claimed under Division 43 for an income year if you:

- own, lease or hold part of a construction expenditure area of capital works ('your area'); and
- incurred the expense, or are an assignee of the lessee or holder who incurred the expense; and
- use your area to produce income, or in some cases for R&D activities.

In calculating the deduction you must identify your area for each construction expenditure area of the capital works. Your area may comprise the whole of the construction area or part of it.

Lessee or holder of a capital works

A deduction can be claimed in respect of 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, or in some cases for R&D activities.

If there is a lapse in the lease the entitlement to the deduction reverts to the building owner.

Requirement for deductibility

You 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
- you use the area in the income year to produce assessable income or carry on R&D activities in the way set out in section 43-140 of ITAA 1997.

No deduction until construction is complete

A deduction cannot be claimed for any period before the completion of construction of the capital works even though you 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 commenced 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 in respect of the construction of capital works is deductible if there is a construction expenditure area for the capital works. Whether there is a construction expenditure area for the capital works and how it is identified depends on the following factors:

- the type of expenditure incurred—only construction expenditure (see below) is deductible under Division 43 of the ITAA 1997
- the time the capital works commenced
- 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. Refer to section 43-90 of 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—for example, lift wells and atriums and
- some portion of indirect costs.

In relation to an owner/builder entitled to a deduction under Division 43 of ITAA 1997, the value of the owner/builder's contributions to the work—that is, labour or expertise and any notional profit element—do not form part of construction expenditure. Refer to *Taxation Ruling TR 97/25* and *Addendum*.

Construction expenditure does not include expenditure on:

- acquiring land
- demolishing existing structures
- clearing, leveling, filling, draining or otherwise preparing the construction site prior to carrying out excavation work
- landscaping
- plant
- property or expenditure for which a deduction is allowable or would be allowable if the property were for use for the purpose of producing assessable income under another specified provision of ITAA 1936 or 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.

Note: 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 commenced.

The first specified use construction time was 22 August 1979—refer to Table 43-90 and subsection 43 75(2) of ITAA 1997. No deduction is available under Division 43 of ITAA 1997 in respect of capital works, which were begun on 21 August 1979 or earlier—refer to subsection 43-20(1) of 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

A deduction can only be claimed under this Division if you use your area in a way described in Table 43-140 or 43-145 of Subdivision 43-D of 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 or
- its use has temporarily ceased because of—for example, construction or repairs or for 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 commenced after 30 June 1997, buildings that are used for display are eligible

- it is a building—other than a hotel or apartment building—where construction began after 19 July 1982 and before 18 July 1985 that is used or available for use wholly or mainly for residential accommodation or
- construction began after 19 July 1982 and before 18 July 1985 and it is used for exhibition or display in connection with
 - the sale of all or part of any building, or
 - the lease of all or part of the building for use wholly or mainly for or in association with residential accommodation
- it is used, or held ready for use, by you or an associate for residential accommodation and it is not a hotel or apartment building—for exceptions to this rule refer to section 43-170(2) of ITAA 1997. Associates of the partnership or trustee would include, for example, partners or beneficiaries and their spouses and children.

Your area is taken to be used as residential accommodation if it is:

- part of an individual's home—other than a hotel or apartment building
- used as a hotel, motel or guesthouse but does not satisfy the definition of a hotel building

Note: Special rules for hotels and apartments are contained in section 43-180 of 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 2 calculation provisions:

- section 43-210 of ITAA 1997 deals with the deduction for capital works, which began after 26 February 1992
- section 43-215 of 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

The deduction is calculated separately for each part that meets the description of your area.

Your construction expenditure is multiplied by the applicable rate—either 4 per cent if the capital works were begun after 21 August 1984 and were begun or taken to have begun before 16 September 1987 or 2.5

per cent in any other case—and by the number of days in the income year in which you owned, leased or held your area and used it in a relevant way. That amount is divided by the number of days in the year.

Apportion the amount if your area is used only partly to produce assessable income.

The amount you claim cannot exceed the undeducted construction expenditure.

Capital works begun after 26 February 1992

The deduction is calculated 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 per cent for parts used as described in Table 43-140—Current year use. The rate increases to 4 per cent for parts used as described in Table 43-145—Use in the 4 per cent manner.

Undeducted construction expenditure

The undeducted construction expenditure for your area is the part of your construction expenditure you have left to write off. It is used to work out:

- the number of years in which you can deduct amounts for your construction expenditure and
- the amount that you can deduct under section 43 40 of 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, the remaining amount of undeducted construction expenditure that has not yet been deducted less any compensation received is allowed as a deduction. Where the destruction or demolition is voluntary, the entitlement to a deduction is unaffected.

The deduction is allowable 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 or for R&D.

For guidelines issued by the Commissioner on these measures refer to *Taxation Ruling TR 97/25 and Addendum*.

Heritage conservation tax offset

A 20 per cent tax offset on approved heritage conservation expenditure may be available where a final certificate has been issued to a partnership or a trustee of the trust specifying an amount of eligible heritage conservation works expenditure.

Heritage conservation works are defined as works done for the purpose of conserving, maintaining, preserving, restoring, reconstructing or adopting a building or structure of cultural significance.

The tax offset is allowable if:

- the expenditure is spent on buildings and structures that are listed in the Commonwealth, State or Territory heritage registers
- the expenditure is at least \$5000
- the expenditure is not financed out of a fund, donations to which are deductions under Division 30 of ITAA 1997, or by a low interest loan or a Commonwealth, State or Territory grant
- the expenditure is not eligible for a capital allowance, deduction for decline in value of a depreciating asset or deduction under other taxation provisions
- the taxpayer, either alone or with others has a freehold interest in, or a Crown lease over, the land on which the building or structure is situated
- a provisional certificate is obtained from the Minister for Communications, Information Technology and the Arts who administers the scheme.

The provisional certificate remains in force from the time of issue until the earliest of:

- the taxpayer disposes of their interest in the property
- the taxpayer dies
- in the case of the taxpayer being a company, partnership or trust, it is dissolved or otherwise terminated
- 24 months
- the expiration of the period or
- the issue of the final certificate.

The tax offset is available in the income year that the final certificate was applied for, not the income year in which the final certificate was issued.

The tax offset is subject to limitation in non-arm's length arrangements.

P Where a partnership is issued with a final certificate that specifies an amount of eligible heritage conservation works expenditure and the partnership has net income for the income year in which the partnership applied for the final certificate, each partner is entitled to a tax offset of tax in the partner's own tax return for that income year equal to:

20%	X	Eligible heritage conservation works expenditure	X	$\frac{\text{Partner's individual interest in the net income of the partnership of the income year}}{\text{Net income of the partnership of the income year}}$
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If the partnership has no net income for the year in which the final certificate is applied for, no tax offset is allowable to the partners.

T Where a final certificate has been issued to a trustee of a trust, specifying an amount of eligible heritage conservation works expenditure, the tax offset is allowable to the beneficiaries of the trust or, in certain circumstances, it is the trustee who is entitled to the tax offset. To qualify for the tax offset the trust must have a net income for the income year in which the trustee applied for the final certificate.

A beneficiary is entitled to a tax offset in their assessment for the income year if the beneficiary is presently entitled to a share of the income of the trust for the income year and the share of the net income constitutes assessable income of the beneficiary under section 97 of ITAA 1936. The tax offset is determined in accordance with subsection 159 US(2) of ITAA 1936.

The trustee is entitled to the tax offset if:

- the trustee is assessable on the share of the net income of a beneficiary who is under a legal disability—under section 98 of ITAA 1936—for the income year in which the trustee applied for the final certificate. The beneficiary's share of the tax offset is allowable in the assessment to the trustee on account of the beneficiary for that income year—the tax offset is determined in accordance with subsection 159 US(3) of ITAA 1936—or
- the trustee is assessable on the income of a trust to which no person is presently entitled—under section 99 or 99A of ITAA 1936—for the income year in which the trustee applied for the final certificate. The trustee is entitled to the tax offset in the assessment of the trust for that income year—the tax offset is determined in accordance with subsection 159 US(4) of ITAA 1936.

If the trustee believes that there is entitlement to either the trustee or beneficiaries for a tax offset for heritage conservation, attach a statement giving details of why it is considered that a tax offset be allowed. Print Yes in the Have you attached any 'other attachments'? box on page 1 of the Trust tax return.

Trustees of corporate unit trusts and public trading trusts are taxed as if they were companies. Such a trustee who has been issued with a final certificate is entitled to a tax offset for eligible heritage conservation expenditure in the assessment of the trust for the income year in which the final certificate was applied for.

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 with effect from 14 February 1997. The provisions relating to the concession are contained in Division 16L of ITAA 1936 and Chapter 3 of the *Development Allowance Authority Act 1992*.

The tax concession was, broadly, by way of an exemption of the lender's interest on borrowings—or, as an option, a tax offset of 30 per cent of the interest—and non-deduction for the borrower's interest. In addition, any profit or loss on the disposal of an infrastructure borrowings instrument was non-assessable or non-deductible.

Eligible infrastructure facilities included:

- land transport
- seaport
- electricity generation
- air transport
- gas pipeline
- water supply and
- sewerage or waste water facilities.

The replacement land transport infrastructure tax offset contained in Division 396 of ITAA 1997 is a more restricted concession. Only road and rail infrastructure facilities may be approved infrastructure projects.

As a transitional measure, however, projects for which an application had been made under the previous concession, extensions of projects certified under the previous concession, or projects certified after the cessation of the previous concession, may be approved.

The concession is in the form of 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 Transport and Regional Services.

Where the lender's interest is subject to a tax offset, the project borrower is denied a deduction in respect of a comparable amount of interest.

Tax offsets are allowable only in the first 5 income years after the first borrowing for the infrastructure project.

Appendix 6 Foreign exchange gains and losses of a capital nature

Assessable income of a partnership or trust includes realised gains of a capital nature related to carrying on business or earning assessable income where the gains arise from the effect on certain eligible contracts of changes in the value of foreign currency relative to Australian currency. Any such foreign exchange gain is included in assessable income at item 12—Other Australian income.

A loss of that type which is realised on an eligible contract may be deductible. The amount of any deduction is reduced by any gain made on a related contract entered into by a partner, trustee or an associated person, if the gain has not been and will not be included in any party's assessable income, and if another person who is not an associate makes a gain from a related contract, the deductible loss to the partnership or trust is reduced by the lesser of the amount of the gain not included in the other person's assessable income and the amount of any compensation paid by the other person to the partnership or trust. Any deductions are claimed at item 15—Other deductions.

An eligible contract is one entered into after 18 February 1986, unless it is a 'hedging contract' entered into after that date to lessen exposure to risks from movements in foreign currency in relation to another contract entered into on or before that date. A loan contract taken out before 19 February 1986 which is extended or rolled over after that date may be treated as an eligible contract.

Examples of eligible contracts are:

- a contract for a business loan of foreign currency
- a contract to pay—or receive—foreign currency for the purchase or sale of a capital business asset
- a foreign currency business or investment bank account
- forward cover hedging contracts relating to the above contracts.

Capital gains tax consequences

There may be CGT consequences if there is a CGT event—for example, a disposal—in relation to CGT assets, which are expressed, in foreign currency.

Note: Foreign currency is itself a CGT asset for capital gains purposes.

Record retention—if the partnership or trust is claiming a foreign exchange loss, keep a record of the following:

- the date the partnership or trust entered into the contract
- the terms of the contract
- the purposes in entering into the contract and
- whether the loss has been offset against any other foreign exchange gains of a capital nature.

Appendix 7 Uniform capital allowances

The following concepts relevant to the uniform capital allowance system (UCA) are referred to in this appendix:

- 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 deduction for decline in value of water facility
- Limited recourse debt
- Loss on the sale of a depreciating asset
- Luxury car leases
- Mining and quarrying and minerals transport
- Profit on the sale of a depreciating asset
- Section 40-880 deduction.

For more information on any of these topics, refer to the publication *Guide to depreciating assets*.

Note: STS taxpayers

Taxpayers that elect to enter the STS calculate deductions for the decline in value of most of their depreciating assets under the specific STS depreciation (capital allowance) rules see page 22.

Balancing adjustment amounts

If you cease to hold or to use a depreciating asset, a balancing adjustment event occurs. You will need to calculate a balancing adjustment amount to include in your assessable income or to claim as a deduction. If the asset was used for both taxable and non-taxable purposes, the balancing adjustment amount is reduced by the amount attributable to the non-taxable use. A capital gain or capital loss may arise attributable to that non-taxable use.

Deduction for decline in value of depreciating assets

From 1 July 2001, the UCA applies to most depreciating assets, including those acquired before that date. The UCA consolidates a range of former capital allowance provisions, including those relating to plant and equipment. It does this by providing a set of general rules that applies across a variety of depreciating assets and certain other capital expenditure. It maintains some concessional tax treatments such as those applying to primary production capital expenditure and primary production depreciating assets and also introduces new deductions for certain types of capital expenditure that did not previously attract a deduction.

You now calculate deductions for the decline in value of your depreciating assets using these new rules. You can deduct an amount equal to the decline in value of a

depreciating asset for the period that you hold the asset during the income year. However, your deduction is reduced to the extent you use the asset or have it installed ready for use for other than a taxable purpose.

You work out the decline in value of a depreciating asset using either the prime cost or diminishing value method. Both methods are based on the effective life of an asset. For most depreciating assets, you choose whether to self-assess the effective life or to adopt the Commissioner's determination which can be found in *Taxation Ruling TR 2000/18*.

The decline in value of a depreciating asset costing less than \$300 (excluding input tax credit entitlements) is its cost (but only to the extent the asset is used for a taxable purpose) where 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 (excluding input tax credit entitlements), and
- it is not one of any number of substantially identical items acquired in the same income year that together cost more than \$300 (excluding input tax credit entitlements).

Certain assets that cost less than \$1000 (excluding input tax credit entitlements) or that have an opening adjustable value of less than \$1000 can be allocated to a low-value pool to calculate the decline in value. Assets eligible for the immediate deduction cannot be allocated to a low-value pool.

To calculate your deduction for decline in value of depreciating assets see Worksheet 1—depreciating assets on page 59 and Worksheet 2—low-value pool. The calculation should not include deductions for primary production depreciating assets such as horticultural plants, grapevines or water facilities which are separate—*Expense subtractions*.

Deduction for environmental protection expenses

The partnership or trust can deduct expenditure to the extent that it is 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 partnership's or trust's earning activity. The earning activity is one the partnership or trust 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, or
- mining site rehabilitation.

The partnership or trust may also 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 partnership or 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.

Expenditure incurred on or after 19 August 1992 on certain earthworks constructed as a result of carrying out EPA can be written off at the rate of 2.5 per cent per annum under the provisions for capital works expenditure.

Expenditure on EPA that is also an environmental impact assessment of the partnership's or trust's project is not deductible as expenditure on EPA. Instead, it will be deductible over the life of the project using a pool—see Deduction for project pool below in this appendix. An example would be a study to determine the quantity and type of pollutants which will be produced from a process used in a proposed business.

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.

Any recoupment of the expenditure would be assessable income.

Apart from taking the deduction for environmental protection expenses into account as an expense subtraction at item 5, label **B—Expense reconciliation adjustments** to the extent that it has not been included at any other expense label, also show the amount at item 52, label **V—Deduction for environmental protection expenses**.

Deduction for project pool

Certain capital expenditure incurred after 30 June 2001 which is directly connected with a project that is carried on, or proposed to be carried on, for a taxable purpose can be written off over the life of the project using a pool. Such capital expenditure, known as a project amount, is expenditure incurred on:

- creating or upgrading community infrastructure associated with the project
- site preparation for depreciating assets (other than to drain swamp or low-lying land or to clear land for horticultural plants and grapevines)
- feasibility studies for the project
- environmental assessments for the project

- obtaining information associated with the project
- seeking to obtain a right to intellectual property
- ornamental trees or shrubs.

Project amounts also include mining capital expenditure and expenditure on certain facilities used to transport minerals or quarry materials. For more information on these project amounts—see Mining and quarrying and minerals transport below in this appendix.

The expenditure must not be otherwise deductible or form part of the cost of a depreciating asset.

The deduction for a project pool commences when the project begins to operate.

It is calculated as follows:

$$\frac{\text{Pool value} \times 150\%}{\text{DV project pool life}}$$

The 'DV project pool life' is the project life or, if that life has been recalculated, the most recently recalculated project life. The project life is determined by estimating how long it will be from when the project starts to operate until it stops operating.

The 'pool value' at a particular time is broadly the sum of the project amounts allocated to the pool up to that time 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.

There is no need to pro-rate the deductions where the project starts or permanently stops operating during a year or for project amounts incurred during a year. However, the deduction is reduced for the extent to which the project does not operate for a taxable purpose.

Any recoupment of the expenditure would be assessable income.

If the project is abandoned, sold or otherwise disposed of, a deduction can be claimed for the project pool value at that time. Any proceeds from abandonment, sale or disposal are assessable.

Assessable income includes any capital amount received in relation to a project amount allocated to the project pool or in relation to something on which a project amount is expended.

Apart from taking the deduction for project pool into account as an expense subtraction at item 5, label **B—Expense reconciliation adjustments** to the extent it has not been included at any other expense label, also show the amount at item 46, label **P—Deduction for project pool**.

Note: If there is an amount greater than \$1000 at item 46, label **P—Deduction for project pool**, complete and attach a Capital allowances schedule unless the

partnership or trust is eligible to enter the STS and has elected to do so at item 3—Simplified tax system election. For more information see the *Capital allowances schedule instructions*.

Electricity connections and telephone lines

Partnership tax return

Expenditure on electricity connections and telephone lines incurred in partnership is allocated to each partner and the relevant deduction is available to them. It is not available in calculating the net income or loss of a partnership.

Trust tax return

A deduction can be claimed by a trust 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 or
- a telephone line to land being used to carry on a primary production business.

Grapevines and horticultural plants

Partnership tax return

Expenditure on grapevines and horticultural plants incurred in partnership is allocated to each partner and the relevant deduction is available to them. It is not available in calculating the net income or loss of a partnership.

Trust tax return

Under the UCA, the general rules for working out decline in value or the immediate deduction for an asset costing \$300 or less are not available. The trust can deduct an amount equal to the decline in value of a grapevine or a horticultural plant under special provisions. The decline in value of grapevines is calculated at a specified rate of 25 per cent, provided the trust owns the land to which the grapevines are affixed, or the grapevines are established on Crown land held under lease. If the trust is not entitled to calculate its deduction for decline in value under the provisions relating to grapevines because these conditions are not met, it can calculate its deduction for decline in value under the provisions relating to horticultural plants. Horticultural plants are also written off at specified rates.

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 interest component is deductible to the hirer subject to any reduction required under the thin capitalisation rules.

In relation to the notional sale, the hirer of a depreciating asset is treated as the holder of the asset and is 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.

If the partnership or trust has included hire purchase charges at any label in item 5—Business income and expenses the amount should be included at label **B—Expense reconciliation adjustments** as an expense add back. The deduction for the decline in value of the goods and the interest component are also included at label **B—Expense reconciliation adjustments**, but as expense subtractions to the extent they have not been included at any other expense label.

Landcare operations and deduction for decline in value of water facility

Partnership tax return

Landcare operation expenditure and expenditure for water facilities incurred in partnership is allocated to each partner and the relevant deduction is available to the partner. It is not available in calculating the net income or loss of a partnership.

Trust tax return

Deductions in relation to landcare operation expenditure and expenditure for water facilities (see below) are available to a trust.

Any recoupment of the expenditure would be assessable income.

Apart from taking the deduction for landcare operations and for water facilities into account as an expense subtraction at label **B—Expense reconciliation adjustments** to the extent it has not been included at any other expense label, the trust will also need to show the amount at item 51, label **S—Landcare operations and deduction for decline in value of water facility**.

Landcare operations

Landcare operation expenditure covers 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.

The deduction is available where the land is used wholly for either:

- a primary production business or
- a business for the purpose of producing assessable

income from the use of rural land—except a business of mining or quarrying, and is reduced to the extent it is not.

A landcare operation is one of the following operations:

- eradicating or exterminating animal pests from the land
- eradicating, exterminating or destroying plant growth detrimental to the land
- preventing or combating land degradation other than by the use of fences
- erecting fences to keep out animals from areas affected by land degradation to prevent or limit further damage and assist in reclaiming the areas
- erecting fences to separate different land classes in accordance with an approved land management plan
- constructing a levee or similar improvement
- constructing drainage works—other than the draining of swamps or low-lying areas—to control salinity or assist in drainage control.

No deduction is available if the capital expenditure is on plant unless it is on certain fences, dams or other structural improvements.

In each case, apart from the construction of a levee, the operation must be carried out primarily and principally for the purpose stated. This is to ensure that the deduction for landcare operation expenditure and the 3 year write-off for water facilities cannot both be claimed for the same item of expenditure. Where a levee is constructed primarily and principally for water conservation, it is a water facility (refer below).

If the trust is carrying on a primary production business on the land, the trust may claim the deduction even if it is a lessee.

Water facilities

A deduction for the decline in value of a water facility is allowable to the trust. A water facility is plant or a structural improvement that is primarily or principally for the purpose of conserving or conveying water. The expenditure must be incurred primarily and principally for conserving or conveying water for use in a primary production business on land in Australia.

The deduction can be claimed in equal instalments over 3 years.

Items in relation to which deductions are available include dams, earth tanks, underground tanks, concrete or metal tanks, tank stands, bores, wells, irrigation channels or similar improvements, pipes, pumps, water towers, windmills and extensions or improvements to any of these items.

If the trust is carrying on a business of primary production on the land, 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 or
- a taxable purpose, for example producing assessable income.

Limited recourse debt

Under Division 243, the limited recourse debt rules, excessive deductions for capital allowances are to be included in assessable income where expenditure on property has been financed or refinanced wholly or partly by limited recourse debt. This will occur where:

- 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 taxpayer: special rules apply in working out whether the debt has been fully paid.

Limited recourse debt is a debt where the rights of the creditor as 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 also 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 as against the debtor are capable of being so limited. Limited recourse debt includes a notional loan under a hire purchase agreement.

Loss on the sale of a depreciating asset

Any such loss included in the accounts will differ from the deductible balancing adjustment amount taken into account for taxation purposes.

Where the accounts show a loss on the sale of a depreciating asset under item 5, label **N—All other expenses**, that amount will be an Expense add back at item 5, label **B—Expense reconciliation adjustments**.

Luxury car leases

Luxury car leasing arrangements entered into after 7.30 p.m., by legal time in the ACT, on 20 August 1996 (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 2001–02 is \$55 134.

The cost or value of the car specified in the lease (or the market value if the parties were not dealing at arm's length in connection with the lease) is taken to be the cost of the car for the lessee and the amount loaned by the lessor to the lessee to buy the car.

In relation to the notional loan, the actual lease payments are divided into notional principal and finance charge components. That part of the finance charge component for the notional loan applicable for the particular period (the accrual amount) is deductible to the lessee subject to any reduction required under the thin capitalisation rules.

In relation to the notional sale, the lessee is treated as the holder of the luxury car and is 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.

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.

Both deductions are reduced to reflect any use of the car for other than a taxable purpose.

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 and any assessable or deductible balancing adjustment amount for the lessee must be determined.

Where luxury car lease payments are included at item 5, label **G—Lease expenses**, the amount should also be included at item 5, label **B—Expense reconciliation adjustments** as an expense add back. The deduction for decline in value of the luxury car and the accrual amount are also included at item 5, label **B—Expense reconciliation adjustments**, but as expense subtractions to the extent they have not been taken into account at any other expense label.

Mining and quarrying and minerals transport

From 1 July 2001, deductions for the decline in value of depreciating assets used in mining and quarrying and in minerals transport are worked out using the general rules. However, the decline in value of a depreciating asset you first use for exploration or prospecting for minerals (including petroleum) or quarry materials obtainable by activities carried on for the purpose of producing assessable income can be its cost. This means you can deduct the cost of the asset in the year in which you start to use it for such activities to the extent the asset is used for a taxable purpose.

An immediate deduction is available for payments of petroleum resource rent tax and for capital expenditure, which does not form part of the cost of a depreciating asset and is incurred on:

- exploration or prospecting for minerals (including petroleum) or quarry materials obtainable by activities carried on for the purpose of producing assessable income, or
- rehabilitation of your mining or quarrying sites.

If the expenditure arises from a non-arm's length transaction and is more than the market value of what it was for, the amount of the expenditure is instead taken to be that market value.

Any recoupment of the expenditure is included in assessable income.

Expenditure incurred after 30 June 2001, which does not form part of the cost of a depreciating asset and is not otherwise deductible may be deductible as a project amount through a project pool. This applies to mining capital expenditure directly connected with carrying on mining operations and transport capital expenditure directly connected with carrying on the associated business.

Mining capital expenditure is capital expenditure incurred on:

- carrying out eligible mining or quarrying operations
- site preparation
- necessary buildings or improvements
- provision of water, light or power to the site of those operations
- building directly used to operate or maintain treatment plant
- buildings and improvements for storing minerals or quarry materials for treatment, and
- housing and welfare—except for quarrying operations.

Transport capital expenditure includes capital expenditure on:

- a railway, road, pipeline, port or other facility used principally for mining or quarrying transport
- obtaining a right to construct or install such a facility
- compensation for damage for constructing or installing such a facility
- earthworks, bridges, tunnels or cuttings, and
- contributions you make in carrying on business to someone else's expenditure on the above items.

For information on how to work out deductions for such expenditure using a project pool, see Deduction for project pool on page 79.

Special transitional rules ensure that amounts of undeducted expenditure as at the end of 30 June 2001 incurred under the former special provisions for the mining and quarrying and mineral transport industries remain deductible over the former statutory write-off periods, for example over the lesser of 10 years and the life of mine.

Similarly, that former statutory write-off continues to apply to expenditure incurred after 30 June 2001 if:

- it would have qualified for deduction under those former special provisions, and
- it is a cost of a depreciating asset that you started to hold under a contract entered into before 1 July 2001 or otherwise started to hold or commenced to construct before that day.

Finally, exploration or prospecting expenditure incurred after 30 June 2001 that is a cost of a depreciating asset that you started to hold under a contract entered into before 1 July 2001 or otherwise started to hold or commenced to construct before that day is deductible at the time incurred.

Profit on the sale of a depreciating asset

Any such profit included in the accounts will differ from the assessable balancing adjustment amount taken into account for taxation purposes.

Where the accounts show a profit on the sale of a depreciating asset under item 5, labels **G** or **H—Other business income**, that amount will be an income subtraction at item 5, label **A—Income reconciliation adjustments**.

Section 40-880 deduction

This section provides a deduction for certain business related costs incurred after 30 June 2001 to the extent that the business is or was carried on for a taxable purpose, such as for producing assessable income. The costs must not be otherwise deductible or form part of the cost of a depreciating asset or of land. The following types of business related expenditure may now qualify for deduction:

- business establishment costs
- business restructuring costs
- business equity raising costs
- costs of defending your business against a takeover
- costs to the business of unsuccessfully attempting a takeover
- costs of liquidating a company that carried on a business and of which you are a shareholder and
- costs of ceasing to carry on the business.

The partnership or trust can deduct 20 per cent of the expenditure in the year the expenditure is incurred and in each of the following four years.

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.

Apart from taking the section 40-880 deduction into account as an Expense subtraction at item 5, label **B—Expense reconciliation adjustments** to the extent it has not been included at any other expense label, also show the amount at item 47, label **X—Section 40-880 deduction**.

Appendix 8 Deductions applicable to partners

Capital allowances for primary producers and some landholders

A deduction is not available to a partnership under Subdivisions 40-F and 40-G of ITAA 1997 for:

- electricity connections and telephone lines
- grapevines and horticultural plants
- landcare operations and the decline in value of a water facility

A deduction is available to each partner in accordance with any agreement on how the expenditure is to be borne or, in the absence of any agreement, according to each partner's interest in the partnership income or loss.

Film industry incentives

The conditions under which concessions are available if a partnership invests in or contributes money to the production of a qualifying Australian film are explained in the publication *Australian film industry incentives*.

The concession does not apply in the calculation of the partnership net income or loss but is available instead in the partner's own tax return. Capital expenditure is treated as having been expended by the partners according to any agreements to how the expenditure is to be borne or in the absence of any agreement, according to each partner's interest in the partnership income. Similarly, film income is apportioned to each partner.

Farm management deposits scheme

Farm management deposits (FMD) scheme, is designed to reduce fluctuations in a primary producer's income.

Primary producers may be able to claim a deduction in the income year an amount is deposited into an FMD. When the deposit is withdrawn, the primary producer is assessed on the withdrawal up to the amount of the deduction claimed when the monies were deposited. If in the year of income the depositor became bankrupt or ceased to be a primary producer for at least 120 days, all remaining deposits become repayable and are assessable income in that year to the extent they have previously been claimed as a deduction. Refer to Division 393 of Schedule 2G to ITAA 1936.

Partnerships that carry on a business of primary production are not entitled to a deduction for monies placed into FMDs. However deductions for FMDs may be allowable to partners—other than companies—in partnership that carry on a business of primary production in Australia.

A partner cannot claim a FMD deduction for an amount that exceeds the total deposits made in the income year, or the taxable primary production income for that year, whichever is less. Also a partner cannot claim a deduction for any FMDs made in 2001-02 if in that year their taxable non-primary production income is more than \$50 000, they became bankrupt or ceased to be a primary producer for at least 120 days.

The maximum amount that can be held at any time in FMDs is \$300 000.

Deceased estates

A deduction cannot be claimed for any deposits made by a partner who died during 2001-02. Any farm management deposits held at the time of death become immediately repayable at that time and are assessable in 2001-02, in the return to the date of death, to the extent they have previously been claimed as a deduction.

For more information on FMDs:

- contact your financial institution—for FMD interest rates, etc
- phone the Department of Agriculture, Fisheries and Forestry Australia on **1800 808 869**
- refer to the publication *Information for primary producers*.

Partnership losses

Where a partnership loss is incurred by a partnership in an income year, individual partners can claim a deduction for their share of the partnership loss. A partnership loss is incurred where the allowable deductions—other than deductions allowable under section 82AAT of ITAA 1936 or Division 36 of ITAA 1997—exceed the assessable income of the partnership. The partnership loss is the amount of that excess.

An exception to this is foreign source losses, which are carried forward within the partnership. For more information refer to *Taxation Determination TD 92/113*.

Rules relating to deferral of non-commercial business losses apply to individuals from 1 July 2000. These rules require a partner who is an individual to defer the deduction for their share of a loss from a business activity of the partnership unless the individual is covered by an exception, or the business activity satisfies one of 4 tests or the Commissioner exercises his discretion. For more information on these rules refer to item 15—Deferred non-commercial business losses in *TaxPack 2002 supplement* and the publication *Non-commercial losses: partnerships*.

Research and development expenditure

Companies incorporated in Australia may be eligible for deductions of 125 per cent, and in certain circumstances 175 per cent, for expenditure incurred on qualifying R&D expenditure carried out in Australia. A partner in a partnership of otherwise eligible companies may be eligible for the R&D concession for qualifying expenditure. For information on how a company may claim the R&D tax concession, refer to the

Research and development tax concession schedule Instructions. To obtain a copy of this publication visit the ATO website www.ato.gov.au and enter 'research and development' into the search function.

Superannuation

For information on claiming a deduction for personal superannuation contributions refer to *TaxPack 2002 supplement*.

Appendix 9 Trust loss and bad debt legislation—Schedule 2F to ITAA 1936

Legislation was enacted during 1997–98 which affects the deductibility by trusts of prior year losses, debt deductions—bad debts and debt/equity swap amounts—and other current year amounts. These provisions are contained of Schedule 2F to ITAA 1936. The following provides a broad overview of the legislation. For more information on the trust loss provisions, family trust elections or interposed entity elections, phone the Losses hotline on **1800 634 725**.

Dates of effect:

- the measures affecting the deductibility of prior year losses and current year amounts apply from 7.30 p.m. AEST on 9 May 1995
- the debt deduction provisions apply from 7.30 p.m. AEST on 20 August 1996
- provisions affecting the deductibility of quarantined foreign losses apply from 2 October 1997.

The application and transitional provisions are contained in items 13 to 26 of Schedule 1 to *Taxation Laws Amendment (Trust Loss and Other Deductions) Act 1998*.

Types of trust for the purposes of the legislation

The legislation applies to 2 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 of Schedule 2F to ITAA 1936
- non-fixed trusts (including discretionary trusts)—defined in section 272-70 of Schedule 2F to ITAA 1936.

Excepted trusts—defined in section 272-100 of Schedule 2F to ITAA 1936—include family trusts (as defined in Subdivision 272-D of Schedule 2F to ITAA 1936, see Family trust/interposed entity election status on page xx), complying superannuation funds, complying approved deposit funds, pooled superannuation trusts, deceased estates administered within 5 years, and fixed unit trusts that are directly or indirectly wholly owned by tax exempt bodies.

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, which are not excepted trusts, are subject to the 50 per cent stake test, which tests for continuity of

majority underlying beneficial ownership of the trust during the relevant periods—see section 269-55 of Schedule 2F to ITAA 1936. Fixed trusts which are listed widely held trusts—as defined in section 272-115 of Schedule 2F to ITAA 1936—that fail the 50 per cent stake test but pass the same business test—see section 269-100 of Schedule 2F to ITAA 1936—may avoid the above consequences. Refer to Division 266 of Schedule 2F to ITAA 1936 in relation to the ownership tests that apply to fixed trusts.

Non-fixed trusts, which are not excepted trusts, are subject to:

- the 50 per cent stake test—if applicable
- the control test—see section 269-95 of Schedule 2F to ITAA 1936, and
- the pattern of distributions test—see section 269-60 of Schedule 2F to ITAA 1936—if applicable.

Refer to Division 267 of Schedule 2F to ITAA 1936 in relation to 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 per cent stake test or the pattern of distribution test to a trust under the legislation, there are concessional tracing rules in relation to fixed entitlements that are held directly or indirectly by:

- a government body
- a special company—as defined
- certain kinds of funds
- a family trust—as defined
- a listed public company or
- a widely held unit trust.

Refer to sections 272-25 and 272-30 of Schedule 2F to ITAA 1936.

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 of Schedule 2F to ITAA 1936.

In general terms, the income injection test applies where under a scheme an ‘outsider’ to the trust—refer to section 270-25 of Schedule 2F to ITAA 1936—provides a benefit to the trust, a benefit is provided to the outsider by the trust, and either of those benefits were 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’ refer to section 270-20 of Schedule 2F to ITAA 1936.

Appendix 10 Instructions to trustees of deceased estates

T These instructions will assist you in completing the Trust tax return for a deceased estate, if you are:

- the legal personal representative (LPR)
- a trustee/ executor
- an administrator of a deceased estate
- collecting information on behalf of an administrator
- a beneficiary in a deceased estate.

Deceased estates generally

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 is responsible for administering the trust property in the best interests of the beneficiaries.

A trust is made up of:

- the assets of a deceased person—the trust property
- the 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, also charitable or scientific institutions and religious bodies and
- the trustee—who is usually appointed by the deceased person's will. For income tax purposes, the LPR of a deceased estate is the trustee of the deceased estate.

Note:

- 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 LPR 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

- Notify the ATO of the death, so that the issue of any notices can be stopped which 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 the ATO.
- 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 are in receipt of:

- the age pension
- the disability support pension or
- a Department of Veterans' Affairs (DVA) pension.

In this case the LPR of the deceased person simply needs to write and advise the ATO of 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. The name of the taxpayer is shown 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 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 LPR. These are deductible expenses and
- medical expenses incurred by the deceased taxpayer and paid by the LPR. A medical expenses tax offset may be allowable for this expenditure.

The LPR or a beneficiary 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. The trustee needs to apply for a trust TFN. That is done by completing an *Application to register for The New Tax System—companies and other organisations* if an ABN is required or a *Tax file number application or enquiry for a deceased estate* if an ABN is not required. The name of the trust is shown as *The Estate of John Citizen Deceased* or similar.

Amounts of assessable income received after death

If amounts of assessable income, including interest, rent, and business or employment income, are received after a taxpayer's death, they are part of the deceased estate. The trustee is then liable for paying any tax due on those amounts.

Recreation leave and long service leave

Amounts of recreation leave and long service leave, ordinarily assessable under sections 26AC and 26AD of ITAA 1936, 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. However, in the case of a deceased estate, dividends are not assessable until the trustee of the deceased estate has received them.

Eligible termination payments

Payments made by employers, superannuation funds or approved deposit funds to the trustee of a deceased taxpayer's estate are called 'death benefit ETPs'.

Death benefit ETPs within the deceased taxpayer's RBL are free of tax when passed on to the deceased person's dependants. A dependant includes a spouse or former spouse (including a de facto spouse) of the deceased and a child under 18 of the deceased.

Death benefit ETPs in excess of the RBL are taxed in the same way as excessive components of ETPs, at the top marginal tax rate plus the Medicare Levy (48.5 per cent). The 2001–02 RBLs are at **Table 14** on page 36.

Capital gains tax

For information on deceased estates and capital gains tax refer to the publication *Guide to capital gains tax*.

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 proceed to 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 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 page 54.

Completing a simple deceased estate return

Note: 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 in the first 3 deceased estate Trust tax returns.

Page 1

Complete all appropriate items.

Where the activities of the executor in the realisation of the deceased estate amount to the carrying on of an enterprise and an ABN is required, complete an *Application to register for The New Tax System—companies and other organisations* to obtain an ABN and a TFN. For more information on carrying on an enterprise see *Miscellaneous Taxation Ruling MT 2000/1* (and the Erratum).

If an ABN is not required and an *Application to register for The New Tax System—companies and other organisations* not lodged, before completing the Trust tax return apply for a trust TFN by completing a *Tax file number application or enquiry for a deceased estate*.

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 and 4

Complete the appropriate items listed below.

Income

8 Partnerships and trusts

Show at label **A** or **B—Distributions from partnerships**, any amount of primary production or non-primary production partnership income.

Show at label **Z** or **R—Distribution from trusts**, any amount of primary production or non-primary production trust income received after the date of death.

Show at label **D—Share of imputation credit from franked dividends**, any share of imputation credit from franked dividends.

Show at label **E—Share of credit for TFN amounts withheld from interest and dividends**, any share of credit for TFN amounts withheld from interest, dividends and unit trust distributions.

9 Rent

Show at label **F—Gross rent**, the gross amount of rent.

Show at label **G—Interest deductions**, the total interest expenses incurred in earning rental income.

Show at label **X—Capital works deductions**, the total capital works deduction for rental buildings.

Show at label **H—Other rental deductions**, the expenses that relate to this rental income.

Show at Net rent, the net amount of any rent or any premium received.

10 Gross interest

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

Show at label **J** the interest from banks and credit unions, building societies, debentures, notes and deposits, discounted or deferred interest securities, government securities, Commonwealth government loans issued before 1 November 1968 and interest paid by the ATO.

Copy details from all statements to the Worksheet 5—Interest on page 64. Keep the worksheet with the trust's tax records.

Discounted, deferred interest or capital-indexed securities

Show at label **J** the appropriate amount of discount, interest or other gain if the discount, interest or any other gain accrued this income year on a discounted, deferred interest or capital-indexed security that:

- issued after 16 December 1984
- 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.

TFN amounts withheld from gross interest

Show at label **I**—**TFN amounts withheld from gross interest**, the TFN amounts withheld from gross interest. For more information see page xx.

Note: The ATO may check the amount shown at Gross interest with its own records to determine accuracy. For more information see Information matching on page 3.

11 Dividends

Show at label **K**—**Unfranked amount**, the total amount of unfranked dividends received.

Show at label **L**—**Franked amount**, the total amount of franked dividends received.

Show at label **M**—**Imputation credit**, the amount of imputation credits received directly from a paying company.

Show at label **N**—**TFN amounts withheld from dividends**, the total of TFN amounts withheld from dividends received.

Note: The ATO may check the amount shown at Dividends with its own records to determine accuracy. For more information see Information matching on page xx.

12 Other Australian income

Show at label **O** any other income received by the estate after the date of death. Salary and wages received after the date of death and the assessable amount of ETPs are included at label **O**.

13 Total of items 5 to 12

Show the total income amounts.

Deductions

14 Deductions relating to Australian investment income

Show at label **P** the expenses incurred in earning interest and dividends.

15 Other deductions

Show at label **Q** any other tax-related expenses. Do not include capital expenses incurred in administering the estate.

16 Total of items 14 and 15

Show the total deduction amounts.

17 Net Australian income or loss

Show at label **\$** the total amount shown at item 13—Total of items 5 to 12 less the total amount shown at item 16—Total of items 14 and 15.

18 Capital gains

Show at label **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 for the income year greater than \$10 000, or
- total current year capital losses for the income year greater than \$10 000.

For more information refer to the publication *Guide to capital gains tax*.

Note: Capital losses incurred by the deceased prior to their death cannot be carried forward to their estate.

21 Total of items 17 to 20

Show the total amount of net Australian income or loss plus any net capital gain amount.

23 Total net income or loss

The amount at item 23 equals the amount at item 21—Total of items 17 to 20.

Page 5

Complete Key financial information items 28 to 32.

Page 6

Complete the appropriate items listed below.

57 Statement of distribution

If there has been no distribution of income from the deceased estate the net income amount shown at item 23—Total net income or loss is shown in column 4—Share of Income, Non-primary production income. Print the total at the item—Income to which no beneficiary is 'presently entitled'.

Print an assessment calculation code at label **V** in column 3—Assessment calculation code. For a list of trust assessment calculation codes see appendix 14 on page 97.

For lodgment addresses see appendix 15 on page 98.

For payment options see appendix 16 on page 100.

Appendix 11 Instructions to trustees where a beneficiary is under 18 years of age—other than trustees of deceased estates

T The following paragraphs have been prepared to assist in the application of the taxation provisions relating to trust income to which beneficiaries under 18 years of age are, or are deemed to be, presently entitled.

The basis of the 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 30 June 2002—that is, minors—are presently entitled.

Note: This includes income to which a beneficiary is deemed to be presently entitled.

Such beneficiaries are referred to as minor beneficiaries or minors. Subject to important exceptions, trust income to which a minor is presently entitled generally is taxed at the top marginal tax rate plus the Medicare Levy (48.5 per cent), subject to shading-in arrangements.

Features of the system are outlined below under 3 main headings. These cover:

- the persons to whom the system applies
- the income to which it applies and
- allocation of deductions

The tax rates that apply are outlined in appendix 12.

There are cases where 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 relief, in the form of a tax offset, may be available see appendix 12 on page 95.

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, or that the trustee is entitled to a tax offset, keep the information set out in the questions on page 94 with the trust's tax records. Some circumstances in which a trustee can ignore these details are set out in Completion of the questions on page 93. Failure by the trustee to consider and keep the information in the questions, where this is necessary, together with any additional information, could result in the assessment of the income to the trustee at the higher tax rate provided under the system.

The effect of the system on trust income

The system has no effect on ascertaining the trust net income.

The system can affect an assessment issued to the trustee where a minor beneficiary is presently entitled, but only if the minor is a 'prescribed person' and to the extent that income of the trust to which that beneficiary is presently entitled is eligible income.

Persons to whom the system applies

The system applies to a prescribed person, who is basically any beneficiary under 18 years of age on 30 June 2002 who is not an excepted person. A person is an 'excepted person' if, on 30 June 2002, they were:

- engaged in a full-time occupation
- incapacitated and a person for whom a carer allowance or a disability support pension is paid or would, but for eligibility tests, be payable
- a person who is:
 - entitled to a double orphan's pension or
 - unlikely, because of a permanent disability, to engage in a full-time occupation

and who, in either case, was not wholly or substantially dependent for support on a relative or relatives.

For this purpose a person is regarded as dependent for support on a relative if the person lives with the relative, unless it can be established that the person was not dependent on that relative for support.

If a carer allowance or a disability support pension was not being paid, but the beneficiary was, on 30 June 2002:

- a disabled child
- permanently incapacitated for work within the meaning of the *Social Security Act 1991* relating to those matters
- permanently blind or
- unlikely to engage in a full-time occupation

then a medical certificate must have been issued certifying the disability or incapacity, which existed on 30 June 2002. If a medical certificate was provided in a previous year, the beneficiary remains an excepted person if the condition still existed on 30 June 2002.

The 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 if:

- they were actively engaged in full-time employment or business on 30 June 2002 or
- they were not so engaged on 30 June 2002 but had been during the year for a period or periods totalling 3 months after their last period of full-time education

- in either case the Commissioner is satisfied that the beneficiary had, at 30 June 2002
 - the intention of continuing in that, or engaging in another, full-time occupation during the whole or a substantial part of the year ending 30 June 2003 and
 - no intention of returning to full-time education at any time during the year ending 30 June 2003.

A period during which a person receives Newstart allowance does not constitute a period of engagement in full-time occupation.

Income to which the system applies

If the minor beneficiary is not an excepted person:

- part of the trust income might be subject to the system—this is referred to as eligible income
- part might be excluded—this part is referred to as excepted income.

Eligible income

Trust income to which a minor beneficiary, who is not an excepted 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 the top marginal tax rate plus the Medicare levy (48.5 per cent) in the hands of the trustee and beneficiary—subject to a credit for tax paid by the trustee and shading-in arrangements.

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:
 - as court-awarded damages to the beneficiary for loss of parental support, for personal injury, for disease or for impairment of physical or mental condition, or, as a settlement made otherwise than by a court order, to the extent that the income is considered by the Commissioner 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 a decree or order of judicial separation or similar decree or order as the result of a family breakdown—as defined in section 102AGA of ITAA 1936
 - as a verifiable prize beneficially owned by the minor in a legally authorised and conducted lottery—for example, lotteries and art unions
 - 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 who transferred it to the trustee within 3 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 as indicated in this paragraph, whether those accumulations were made from income of a year prior to or since the start of the system, 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 general 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, where 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 rate 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 it is considered that any part of the trust income is excepted income, read Completion of the questions on page 93 and consider part B of the questions on page 94. Note the special circumstances on page 94. Irrespective of these questions, the income must be included in the Trust tax return so that the return discloses the total trust income from all sources in the normal way.

Each beneficiary's excepted income component must bear the same proportion 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 circumstances exist which warrant a different determination, attach a statement to the *Trust tax return* setting out the facts and the reasons why. Print Yes in the Have you attached any 'other attachments'? box on page 1 of the tax return.

Employment income

Normally, employment income as defined is derived directly by a minor and thus is excepted income. Occasionally, however, superannuation pensions and similar payments, which are included in the definition of 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, allowable deductions are set off against eligible assessable income of the trust as follows:

- any allowable 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** net eligible income—before apportionable deductions
- A** apportionable deductions
- N** net income—before apportionable deductions.

Completion of the questions

Read all of appendix 11 to determine if the following questions need to be answered. Do not include the questions with the Trust tax return, but 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 where:

- no beneficiary is under 18 years of age on the last day of the 2001-02 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—the low income tax offset of \$150 effectively increases the threshold to \$643 for the 2001-02 income year
 - there is no non-resident beneficiary under 18 years of age on the last day of the 2001-02 income year
 - no beneficiary is also a beneficiary in another estate that derives income and
 - the trustee is able to certify for each beneficiary that:
 - ~ the beneficiary is not required to furnish an *Individual tax return* or
 - ~ if the beneficiary is required to furnish an *Individual tax return*, the only income in 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:

- 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—the low income tax offset of \$150 effectively increases the threshold to \$643 for the 2001-02 income year—and that beneficiary derives no income from another trust and
 - 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 part A has been answered. Part B is answered where:
 - any resident minor beneficiary—not being an excepted person—is presently entitled to trust income in excess of \$416
 - the share of net trust income of any resident minor beneficiary, not being an excepted person, is \$416 or less—the low income tax offset of \$150 effectively increases the threshold to \$643 for the 2001-02 income year—and the beneficiary is also the beneficiary in another trust or
 - any non-resident minor beneficiary, not being an excepted person is presently entitled to \$1 or more of trust income.

The trust may be entitled to a tax offset of some or all of the tax charged at the higher rate if it faces serious hardship. For more information see appendix 12 on page 95.

Attach a statement explaining the details and print Yes in the Have you attached any 'other attachments'? box on page 1 of the Trust tax return.

Part A Read and answer these questions if it is claimed that the beneficiary was an excepted person on 30 June 2002. 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:	
<p>1 The beneficiary was in a full-time job on 30 June 2002 (or had been in a full-time job for at least 3 months in the period leading up to 30 June 2002)?</p> <p>Note: If the beneficiary goes back to full-time studies in the coming year, it cannot be claimed that the beneficiary is an excepted person by being in a full-time job.</p>	
2 The beneficiary or someone for the beneficiary, was entitled to a carer allowance or a disability support pension on 30 June 2002?	
3 The beneficiary was a disabled child, permanently blind or permanently incapacitated for work? 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.	
4 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 2002 and, the beneficiary did not rely on support from a relative in that time.	
5 The beneficiary was unlikely to have a full-time job owing to a permanent mental or physical disability in a period of time that included 30 June 2002 and, the beneficiary did not rely on support from a relative in that time.	

Part B Read these questions if it is claimed that all or part of the trust income during the year ended 30 June 2002 was excepted unless all beneficiaries are excepted persons.	Amount of income \$
Is it claimed that any part of the trust income is excepted income because it is:	
1 In the nature of employment income (not including employment income paid to beneficiaries for services rendered)?	
2 Income derived from the investment of any property transferred to the trustee for the benefit of the beneficiary? For more information see Excepted income on page 91.	
3 Income derived from the investment of property representing accumulations of income not subject to the system? For more information see Excepted income on page 91.	
Total net excepted income	
If any excepted income includes a capital gain subject to CGT, show the amount of the capital gain here.	

Note 1: Net excepted income here means the sum of the gross amounts of excepted income of all prescribed beneficiaries less deductions applicable to those amounts.

Note 2: 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 23—Total net income or loss on the Trust tax return, 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 12 Rates of tax payable by trustees on behalf of beneficiaries



Where a beneficiary is presently entitled to a share of the trust income but is under a legal disability, 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 a source in addition to that trust income is assessed on the total of the trust income and the other source incomes but is allowed a credit against the tax so levied for the amount of tax payable by the trustee on the trust income.

The following notes assume that a trustee is entitled, on behalf of a resident beneficiary, to the full tax-free threshold of \$6000. Where a beneficiary becomes or ceases to be an Australian resident, a reduced tax-free threshold may apply.

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—the low income tax offset of \$150 may effectively increase the threshold to \$643 for the 2001–02 income year—and the beneficiary is not entitled to a share of the net income of any other trust, the trustee pays tax at general 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. For more information on eligible income and excepted income in relation to minor beneficiaries see appendix 11 on page 90.

If a minor beneficiary's share of trust income includes eligible income subject to higher tax and also includes excepted income, the tax on the excepted income is first calculated at general 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 \$6000 and the 17 per cent rate from \$6001 to \$20 000 on the taxable income which is excepted income.

Eligible income that is not in the tax-free range is then taxed at 47 per cent, except where the following shading-in provisions apply.

- For a resident whose eligible income is greater than \$416 but does not exceed \$1445, the tax on the eligible income is limited to an amount equal to 66 per cent of the excess of the eligible income over \$416—note that the low income tax offset of \$150 may effectively increase the threshold to \$643 for the 2001–02 income year depending on the amount of the beneficiary's excepted income from the trust.
- For a non-resident whose eligible income:
 - does not exceed \$416, tax is 29 per cent
 - exceeds \$416 but does not exceed \$810, the tax is limited to \$120.64 plus 66 per cent of the excess of the eligible income over \$416.

The trustee pays tax in respect of the beneficiary on excepted income at general individual rates plus the tax on the eligible income at the higher rate less allowable tax offsets and other credits.

In a limited number of cases, where eligible income of a resident is within a shading-in range as set out above, tax calculated on the total taxable income at general individual rates exceeds the tax calculated separately on the excepted income and eligible income components. In such cases, tax is levied on the total taxable income at general individual rates.

Relieving provisions

Serious hardship tax offset

A tax offset of the whole or part of tax levied under the system may be allowed where the tax payable under the system by a minor, including tax payable by a trustee for a minor, exceeds the tax that otherwise would have been payable and exaction of the full amount of tax payable would cause serious hardship.

The tax offset cannot exceed the amount of additional tax payable as a result of the system.

If it is believed that there is an entitlement to a tax offset because of serious hardship, attach a statement to the *Trust tax return* giving details of the nature of the serious hardship and the reasons why it is considered that this tax offset be allowed. Print Yes in the Have you attached any 'other attachments'? box on page 1 of the Trust tax return.

Appendix 13 Ultimate beneficiary non-disclosure tax



Trustees of closely held trusts with trustee beneficiaries presently entitled to net income or tax preferred amounts—non-assessable income and capital—are required to disclose to the Commissioner the identity of ultimate beneficiaries presently entitled to net income and tax-preferred amounts.

Where the trustee of a closely held trust does not correctly identify the ultimate beneficiaries of the net income within the required period, a tax—referred to as ultimate beneficiary non-disclosure tax (UBNT)—is imposed on that part of the net income of the trust at the rate of 48.5 per cent. Where the trustee does not disclose the ultimate beneficiaries of tax-preferred amounts, tax is not imposed, but the trustee may be guilty of an offence under TAA 1953.

Trustees of closely held trusts with trustee beneficiaries presently entitled to a share of net income or tax-preferred amounts may be required to complete an Ultimate beneficiary schedule.

A closely held trust is:

- a trust where up to 20 individuals have fixed entitlements to 75 per cent or greater share of the income or corpus of the trust or
- a discretionary trust

except where the trust is an excluded trust. Refer to section 102UC(1) of ITAA 1936.

A discretionary trust means a trust that is not a fixed trust within the meaning of section 272-65 of Schedule 2F. Refer to section 102UC(4) ITAA 1936. A trust is a 'fixed trust' if persons have fixed entitlements to all of the income and capital of the trust. Refer to section 272-65 of Schedule 2F to ITAA 1936.

An excluded trust is:

- a complying superannuation fund, a complying approved deposit fund or a pooled superannuation trust or
- deceased estates, until the end of the income year in which the 5th anniversary of the death occurs or
- a fixed trust that is a unit trust, and persons all of whose income is exempt from tax under section 23 or Division 50 of ITAA 1997, have fixed entitlements, directly or indirectly, and for their own benefit, to all of the income and capital of the trust or
- a unit trust whose units are listed on the Australian Stock Exchange Limited.

Refer to section 102UC(4) and Section 272-100 of Schedule 2F to ITAA 1936.

A trustee beneficiary is a beneficiary of the trust in the capacity of trustee of another trust. Refer to section 102UD of ITAA 1936.

Ultimate beneficiary statements can only be amended in certain circumstances. Refer to subsection 102UK(2A) of ITAA 1936.

Trustees of closely held trusts have the right to seek recovery of ultimate beneficiary tax they paid—including any GIC—from ultimate beneficiaries, trustee beneficiaries or interposed trustees or partnerships in certain circumstances. Refer to section 102USA of ITAA 1936.

If required, the Ultimate beneficiary schedule should be lodged by the due date for lodgment of the trust's tax return or such later time allowed by the Commissioner. Refer to section 102UH of ITAA 1936.

Instructions on how to complete the schedule are given on the form.

For more information about Division 6D or assistance in completing the schedule, refer to media release 2000/107 and associated Practice Statement PS2001/12 or phone the Losses hotline on **1800 634 725**.

Appendix 14 Trust assessment codes

INTER VIVOS TRUSTS—including discretionary trusts	Assessment codes	
	Resident Beneficiary	Non-resident Beneficiary
Where the beneficiary is presently entitled to a share of the income of the trust		
Over 18 years of age 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 trust	35	
Where no beneficiary is presently entitled to a share of the income of the trust		
Resident or non-resident trust where no beneficiary is presently entitled to income	36*	
Bankrupt estate	37*	
Resident or non-resident trust where no beneficiary is presently entitled to income and to which subsection 99A(2) of ITAA 1936 is to be applied	37*	

DECEASED ESTATE	Assessment codes	
	Resident Beneficiary	Non-resident Beneficiary
Where the beneficiary is presently entitled to a share of the income of the trust		
Under a legal disability	11*	111*
Not under a legal disability	12	118*
A company	13	119*
A trust	14	
Where no beneficiary is presently entitled to a share of the income of the trust		
Trust where the deceased person died less than 3 years before the end of the income year	15*	
Trust where the deceased person died more than 3 years before the end of the income year	16*	
A non-resident trust	17*	

* Tax assessable to the trustee

Appendix 15 ATO locations and where to lodge your tax return

Below are the ATO **mailing addresses** for lodgment of the Partnership or Trust tax return and any other correspondence. If a Family trust election and/or family trust revocation and/or Interposed entity election is attached to the Partnership or Trust tax return, send the tax return and the election to the address on page 13.

Do NOT mail payments to these addresses—see appendix 16 on page 100.

If you have an enquiry, we can usually assist you faster by telephone. The inside back cover lists the telephone helpline services.

Postal address for lodgment

Send the Partnership or Trust tax return to:

Clients in **NSW, ACT** and **QLD**

ATO Corporate data capture

PO Box 1346

NEWCASTLE NSW 2300

Clients in **VIC, TAS, SA, NT** and **WA**

ATO Corporate data capture

PO Box 339

BOX HILL VIC 3128

If you wish to write to the ATO, send your correspondence to

ATO Production

GPO Box 9990

SYDNEY NSW 2001

ATO locations

New South Wales

Albury

567 Smollett Street
Albury

Chatswood

ATOaccess
Shop 43 Lemon Grove
Shopping Centre
441 Victoria Avenue

Hurstville

ATOaccess
1st Floor MacMahon Plaza
14-16 Woodville Street
Hurstville

Newcastle

ATOaccess
266 King Street
Newcastle

Parramatta

ATOaccess
Ground floor
Commonwealth Offices
2-12 Macquarie Street
Parramatta

Sydney

ATOaccess
100 Market Street
Sydney

Wollongong

ATOaccess
93-99 Burelli Street
Wollongong

Queensland

Brisbane

ATOaccess
280 Adelaide Street
Brisbane

Townsville

ATOaccess
Stanley Place
235 Stanley Street
Townsville

Upper Mt Gravatt

2221-2233 Logan Road
Upper Mt Gravatt

Australian Capital Territory

Canberra

ATOaccess
Ground floor Ethos House
28-36 Ainslie Avenue
Canberra

Tasmania

Hobart

ATOaccess
200 Collins Street
Hobart

Western Australia

Northbridge

ATOaccess
45 Francis Street
Northbridge

Victoria

Box Hill

990 Whitehorse Road
Box Hill

Casselden Place

ATOaccess
2 Lonsdale Street
Melbourne

Cheltenham

ATOaccess
4A, 4-10 Jamieson Street
Cheltenham

Dandenong

ATOaccess
14 Mason Street
Dandenong

Geelong

ATOaccess
92-100 Brougham Street
Geelong

Northern Territory

Alice Springs

ATOaccess
Jock Nelson Centre
16 Hartley Street
Alice Springs

Darwin

ATOaccess
Cnr Mitchell & Briggs Streets
Darwin

South Australia

Adelaide

ATOaccess
91 Waymouth Street
Adelaide

Appendix 16 Payment options

To make a payment electronically the partnership's or trust's electronic funds transfer (EFT) code is found immediately above the bar code on the payment advice.

For more information or to request an EFT code phone **1800 815 886**. When you make a payment using a pre-identified payment advice, this must be attached to the payment.

The partnership or trust can make payments by one of 5 methods:

Direct credit, by arranging to have the payment credited to the ATO electronically, via a desktop banking package. Use the following information to transmit a payment to the ATO's bank account:

Bank **Reserve bank of Australia**
 BSB number **093 003**
 Account number **316 385**
 Account name **ATO EFT deposits trust account**

Record the your EFT Code in the direct entry system (DES) lodgment reference field.

Direct debit, by authorising the ATO to debit the partnership's or trust's nominated financial institution account (savings or cheque accounts only) for its payment.

This method can only be used through a tax agent or accountant authorised to use ELS.

The completed Direct Debit Request (DDR) must be received by the ATO at least 5 working days before the first direct debit is due. Once the ATO processes the DDR, payment details or recurring tax liabilities must be provided to the ATO by the partnership's or trust's agent or accountant no later than 3 working days before the due date.



BPAY, using the phone or Internet.

Contact the partnership's or trust's financial institution and follow the prompts.

The partnership's or trust's nominated account must be a cheque or savings account. Enter the ATO's biller code **75556** and the partnership's or trust's customer reference number (the company's EFT code). A receipt number is issued which is the partnership's or trust's record of payment.

 **Mail**, by mailing the payment to the address printed on the partnership's or trust's pre-identified payment advice. Where a pre-identified payment advice is not available, payments can be mailed to either of the addresses below. Include the partnership's or trust's full name, address, telephone number, type of payment and ABN or TFN.

Clients in **NSW, ACT** and **QLD** send mail payments to:

ATO Locked Bag 1793
PENRITH NSW 1793

Clients in **VIC, TAS, SA, NT** and **WA** send mail payments to:

ATO Locked Bag 1936
ALBURY NSW 1936

Cheques and money orders are made payable to the Deputy Commissioner of Taxation with **Not negotiable** printed across the cheque. Tender all cheques in Australian currency. Do not send cash by mail. Do not use pins, staples, paper clips or adhesive tape.

In person, at any Australia Post agency, by cash, money order or cheque. A \$3000 cash limit applies. The partnership or trust must present its pre-identified payment advice when making a payment.

A receipt number is issued which is the partnership's or trust's record of payment.

Note: Australia Post will not accept a photocopy of a pre-identified payment advice.

For more information on any payment method

Phone: **1800 815 866**
 Email: **payment@ato.gov.au**
 Internet: **www.ato.gov.au**

GLOSSARY

AAT	Administrative Appeals Tribunal
ABN	Australian Business Number
ABS	Australian Bureau of Statistics
AEDT	Australian eastern daylight Time (by legal time in the Australian Capital Territory)
AEST	Australian eastern standard Time (by legal time in the Australian Capital Territory)
ATO	Australian Taxation Office
BAS	Business Activity Statement
BSB	Bank state branch
CFC	Controlled foreign company
CGT	Capital gains tax
CGT schedule	<i>Capital gains tax (CGT) schedule 2002</i>
Commissioner	Commissioner of Taxation
DDR	Direct debit request
DES	Direct entry system
DGR	Deductible gift recipient
DIA	Drought investment allowance
DVA	Department veteran affairs
EFT	Electronic funds transfer
ELS	Electronic lodgment service
EPA	Environmental protection activities
FDA	Foreign dividend account
FIF	Foreign investment fund
FLIC	Film licensed investment company
FLP	Foreign life assurance policy
FMB	Farm management bond
FMD	Farm management deposit
FTD	Family trust distribution tax
FTP	File transfer protocol
Gazette	Commonwealth of Australia Gazette
GIC	General interest charge
GST	Goods and services tax
ID	Identification
IED	Income equalisation deposits
IRUs	Indefeasible rights to use international submarine cable system
ITAA	Income Tax Assessment Act
LIC	Listed investment company
LPR	Legal personal representative
MLS	Medicare levy surcharge

GLOSSARY

PAYG	Pay as you go
PDF	Pooled development fund
PPS	Prescribed payments system
PSI	Personal services income
PST	Pooled superannuation trust
R&D	Research and development
RBL	Reasonable benefit limit
RSA	Retirement savings account
SHAR	Superannuation holding accounts reserve
STS	Simplified tax system
TAA	Taxation Administration Act
TFN	Tax file number
Trust Loss Act	Taxation Laws Amendment (Trust Loss and Other Deductions) Act 1998
UBNT	Ultimate beneficiary non-disclosure tax
UCA	Uniform capital allowance
www	World Wide Web

REFERENCES TO TAXATION DETERMINATIONS AND TAXATION RULINGS

IT 2125	Prescribed payment system - credit for deductions of tax from prescribed payments made to a partnership, or the trustee of the trust estate
IT 2346	Income tax: bonuses paid on certain life assurance policies – section 26AH interpretation and operation
IT 2486	Income tax: children's savings accounts
IT 2592	Income tax: cost of mains electricity divisions
IT 2660	Income tax: definitions of royalties
MT 2000/1	The new tax system: the meaning of entity carrying on an enterprise for the purposes of entitlement to an Australian Business Number (ABN)
TD 92/113	Income tax: foreign income: is a foreign loss quarantined within a partnership?
TR 1999/2	Income tax: deductibility of expenditure incurred on tailings dams or similar mining residue, waste storage or disposal facilities
TR 2000/18	Income tax: depreciation effective life
TR 92/13	Income tax: distribution by trustees of dividend income under the imputation system
TR 92/18	Income tax: bad debts
TR 93/1	Income tax and fringe benefits tax: private rulings
TR 93/23	Income tax: valuation of trading stock subject to obsolescence or other special circumstances
TR 94/8	Income tax: whether business is carried on in partnership (including 'husband and wife' partnerships)
TR 96/7	Income tax: record keeping – section 262A – general principles
TR 97/11	Income tax: am I carrying on a business of primary production?
TR 97/16	Income tax : status of taxation rulings following the income tax law rewrite
TR 97/21	Income tax: record keeping: electronic records
TR 97/23	Income tax: deductions for repairs
TR 97/25	Income tax: property development: deduction for capital expenditure on construction of income producing capital works, including buildings and structural improvements
TR 98/23	Income tax: mining exploration and prospecting expenditure
TR 98/7	Income tax: whether packaging items (ei, containers, labels, etc) held by manufacturer, wholesaler or retailer are trading stock
TR 2002/6	Income tax: Simplified tax system eligibility – grouping rules (*STS affiliate, control of non-fixed trust)

Your infolines for further information

Publications, taxation rulings, forms

Tax agents please use the following numbers:

ATOPOS web address → www.iOrder.com.au/ato

Publications distribution service by fax → 1300 361 462

If you have a query on your order status, phone → 1300 362 883

Non tax agents please use the following numbers:

Publications Distribution Service → 1300 720 092

From July to the end of October, this service operates from 8 a.m. to at least 10 p.m. on weekdays and from 10 a.m. to 5 p.m. on weekends—AEST. From November to June, the normal operating hours of the distribution service are 9 a.m. to 7 p.m. weekdays; the distribution service will **NOT** operate during weekends.

Before you ring, check to see if there are other publications you may need—this will save you time and help us.

This distribution service is not run by ATO staff. Your tax questions cannot be answered on this telephone number.

Other enquiries are available through the following services:**Website—ATOassist**

The Internet site at www.ato.gov.au gives access to ATO publications and general information on tax matters, 24 hours a day, every day.

a FAX from TAX—13 2860

If you have access to a fax machine, tax information is available 24 hours a day, every day.

When you phone, follow the instructions to obtain a list of available documents.

Business tax reform infoline—13 2478

This service operates from 8 a.m. to 6 p.m. Mon–Fri.

The Internet site at www.taxreform.ato.gov.au gives access to business tax reform information 24 hours a day, every day.

Superannuation enquiries—13 1020

For assistance with all your superannuation enquiries.

Business infoline—13 2866

Notify the ATO of the amount of tax instalments deducted from employees every quarter to avoid a penalty for failure to notify, even if you cannot pay the full amount by the due date.

Phone this number also for information on the general interest charge.

If you are unsure whether you need to lodge a return or you want to know where or when to lodge a return.

If you need information on the ABN, how to apply for one or assistance in completing an application.

ATO account management line—13 1142

If you cannot pay your tax debt contact the ATO on this number to avoid action being taken to recover the debt.

General enquiries—13 2861

This helpline is for tax questions on topics other than those already described.

Translating and interpreting service—13 1450

If you do not speak English and need help on tax matters, this service sets up a 3-way conversation between you, an interpreter and a tax officer.

Hearing or speech impairment—13 2544

If you have access to appropriate TTY or modem equipment, contact the **Australian Communication Exchange National Relay Service** on **1300 130 478**. You will need to quote one of the helplines listed on this page. The relay service will then connect you with a tax officer.

Partnership and trust
tax returns 2002 instructions

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