



***TD 92/D196 (Withdrawn) - Income tax: is withholding tax payable on the net dividend and/or interest component when an Australian resident trust makes a distribution to which a non-resident beneficiary is presently entitled?***

 This cover sheet is provided for information only. It does not form part of *TD 92/D196 (Withdrawn) - Income tax: is withholding tax payable on the net dividend and/or interest component when an Australian resident trust makes a distribution to which a non-resident beneficiary is presently entitled?*

 This document has been Withdrawn.

Draft Taxation Determinations (TDs) represent the preliminary, though considered, views of the ATO. Draft TDs may not be relied on; only final TDs are authoritative statements of the ATO.

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## Draft Taxation Determination

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**Income tax: is withholding tax payable on the net dividend and/or interest component when an Australian resident trust makes a distribution to which a non-resident beneficiary is presently entitled?**

1. Yes. Withholding tax on dividend and interest income is payable on the net distribution by the trustee.

2. Subsection 128A(3) of the *Income Tax Assessment Act 1936* provides that a trust distribution which includes a dividend and interest component, to which a non-resident beneficiary is presently entitled, is deemed to retain its nature in the hands of the beneficiary. Subsection 95(1) defines the net income of a trust estate, while subparagraph 97(1)(a)(ii) provides details of the entitlement of a non-resident beneficiary to a share of the net income of the trust.

*Example:*

*J.Smith, a non-resident beneficiary is presently entitled to a distribution from the XYZ Family Trust of \$4,500 as follows:-*

Income	rent	5,000
	interest	<u>2,000</u>
	Total income	7,000

Expense againsts: Rent	2,000	
	Interest	<u>500</u> <u>2,500</u>

Net Trust Income	<u>4,500</u> - net rental income 3,000
	net interest income 1,500

*The trustee is liable to pay withholding tax on the beneficiary's share of the net interest income ie: 10% of \$1,500*

**Commissioner of Taxation**

29/10/92

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Legislative Ref: ITAA 95(1), 97(1)(a)(ii), 128A(3)

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