



TD 92/D196 (Withdrawn) - Income tax: is withholding tax payable on the net dividend and/or interest component when an Australian resident trust makes a distribution to which a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

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 This document has been Withdrawn.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.

Draft Taxation Determination

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:-

<i>Income</i>	<i>rent</i>		<i>5,000</i>	
		<i>interest</i>	<u><i>2,000</i></u>	
		<i>Total income</i>	<i>7,000</i>	
<i>Expense againsts: Rent</i>		<i>2,000</i>		
		<i>Interest</i>	<u><i>500</i></u>	<u><i>2,500</i></u>
<i>Net Trust Income</i>			<u><i>4,500</i></u>	<i>- net rental income 3,000 net interest income 1,500</i>

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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