


***TD 92/159 - Income tax: is a beneficiary under a legal disability (for example under 18 or mentally incapacitated) required to lodge a return where a distribution from one trust (other than a corporate or public trading trust) is the beneficiary's only source of income?***

 This cover sheet is provided for information only. It does not form part of *TD 92/159 - Income tax: is a beneficiary under a legal disability (for example under 18 or mentally incapacitated) required to lodge a return where a distribution from one trust (other than a corporate or public trading trust) is the beneficiary's only source of income?*

This Determination, to the extent that it is capable of being a 'public ruling' in terms of Part IVAAA of the *Taxation Administration Act 1953*, is a public ruling for the purposes of that Part. Taxation Ruling TR 92/1 explains when a Determination is a public ruling and how it is binding on the Commissioner. Unless otherwise stated, the Determination applies to transactions entered into both before and after its date of issue.

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## Taxation Determination

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**Income tax: is a beneficiary under a legal disability (for example under 18 or mentally incapacitated) required to lodge a return where a distribution from one trust (other than a corporate or public trading trust) is the beneficiary's only source of income?**

1 No. Subsection 100(1) of the *Income Tax Assessment Act 1936* only requires the inclusion of the trust income in the beneficiary's assessable income where the beneficiary also derives a distribution from another trust estate or derives income from another source.

2 The beneficiary is not required to declare the trust income and therefore the lodgment of the beneficiary's individual return is not necessary.

3 The trustee is liable for the tax assessed on the beneficiary's share of the net trust estate income under subsection 98(1).

**Note:** The distribution is also not included as assessable income under paragraph 26(b) because the trustee is assessed and liable to pay tax in pursuance of section 98.

*Example:*

*An under 18 beneficiary's only source of income is a single trust distribution of \$10000. The beneficiary is not required to lodge a return.*

**Commissioner of Taxation**

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