TR 1999/5 - Fringe Benefits tax: employee benefit trusts and non-complying superannuation funds - meaning of 'associate' - property fringe benefits

This ruling is being reviewed as a result of a recent court/tribunal decision. Refer to Decision Impact Statement: Commissioner of Taxation v Indooroopilly Childrens Services Pty Ltd (Published 23 March 2007).

This ruling contains references to repealed provisions, some of which may have been rewritten. The ruling still has effect. Paragraph 32 in TR 2006/10 provides further guidance on the status and binding effect of public rulings where the law has been repealed or repealed and rewritten. The legislative references at the end of the ruling indicate the repealed provisions and, where applicable, the rewritten provisions.

This document has changed over time. This is a consolidated version of the ruling which was published on *29 November 2006*

Taxation Ruling

Fringe benefits tax: employee benefit trusts and non-complying superannuation funds – meaning of 'associate' – property fringe benefits

Contents Para

Preamble

*The number, subject heading, **Class of person/arrangement**, **Date of effect** and **Ruling** parts of this document are a 'public ruling' for the purposes of Part IVAAA of the **Taxation Administration Act 1953** and are legally binding on the Commissioner. Taxation Rulings TR 92/1 and TR 97/16 together explain when a Ruling is a public ruling and how it is binding on the Commissioner.*

What this Ruling is about

Class of person/arrangement

1. This Ruling considers the circumstances in which a trustee of a trust or non-complying superannuation fund (whether resident or non-resident), which has been set up to provide benefits to employees, is an associate of the employee for the purposes of the *Fringe Benefits Tax Assessment Act 1986* ('the FBTAA'[1]). This Ruling also considers whether a payment by an employer, of money (which does not constitute salary or wages or an exempt benefit) to the trustee of such a trust or non-complying superannuation fund, is a fringe benefit, and the value of that benefit.

2. Under the arrangements to which this Ruling applies, the employee benefit trust or non-complying superannuation fund is established and a contribution is made by the employer to the trustee in respect of potential beneficiaries (being the employees of the business). The trustee then makes an employee a beneficiary (or admits the employee as a member of the fund or, in the case of a unit trust, issues units to the employee). In other words, there is a plan or course of action designed to provide benefits to employees and obtain a tax deduction under section 8-1 of the *Income Tax Assessment Act 1997* ('the 1997 Act') or section 82AAE of the *Income Tax Assessment Act 1936* ('the 1936 Act').

[1] All legislative references in this Ruling are to the FBTAA, unless otherwise stated.

3. Fringe benefits tax ('FBT') applies to a fringe benefit (as defined in subsection 136(1)) that is provided by an employer or associate of the employer, to an employee or an associate of the employee, in respect of the employment of the employee.

Date of effect

4. This Ruling applies to income years commencing both before and after its date of issue. However, the Ruling does not apply to taxpayers to the extent that it conflicts with settlement of a dispute agreed to before the date of the Ruling (see paragraphs 21 and 22 of Taxation Ruling TR 92/20). The Ruling does not apply to taxpayers who have received a Private Ruling (under Part IVAA of the *Taxation Administration Act 1953*) and have implemented the arrangement ruled on, in substantially the same terms as the Private Ruling.

Ruling

5. A trustee of a trust or non-complying superannuation fund that is constituted to provide benefits to employees can be an associate of an employee (as defined in subsection 136(1)) of the employer whose employees will benefit under the trust, notwithstanding that no employee (or associate of the employee) is a beneficiary or member when the benefit is provided to the trustee. It is sufficient if, at the time the benefit is provided to the trustee, there is an arrangement to benefit the employees and an employee will subsequently be made a beneficiary.

6. Alternatively, where the trustee is not an associate of the employee (as defined in subsection 136(1)), it is considered that the trustee can fall within the extended definition of 'associate' in subsection 148(2). Subsection 148(2) deems a third party to be an associate of an employee where the third party receives a benefit from a provider 'under an arrangement' between the employer (or associate) and the employee (or associate).

7. A payment of money by an employer to the trustee of a trust in respect of the employment of an employee, which does not constitute salary or wages or is otherwise exempt by virtue of subsection 136(1), is a property benefit (pursuant to section 40).

8. The benefit is an external property fringe benefit (as defined in subsection 136(1)). The taxable value of the external property fringe benefit is, pursuant to section 43, the notional value of the property. That is, the face value of the money provided.

Explanations

Context

9. In the case of an employee benefit trust, the essential feature is a plan to benefit certain employees or their associates, under a trust, either by way of income, capital, or an exercise of a power of appointment. The following example is an illustration of a typical unit trust arrangement.

Step 1	A special purpose unit trust is established under, or subsequently becomes part of, an arrangement to benefit employees.
Step 2	The employer determines an amount, and pays it to the trustee.
Step 3	The employer nominates certain employees to the trustee. The trustee offers, and employees accept, invitations to subscribe for units in the trust.
Step 4	The trustee lends an amount to the employees on the basis that the loan will be used to subscribe for the units in the trust. (There may or may not be a discretion in the trustee to reject the applications.)
Step 5	The trustee invests the subscription proceeds on behalf of the employees.

10. In the case of a non-complying superannuation fund (whether a resident or non-resident), the following is an illustration of a common arrangement:

A.	A non-complying superannuation fund is established.
B.	The employer makes a contribution to the trustee of the fund.
C.	The trustee invites an employee nominated by the employer, to become a member of the fund. The trustee must admit the employee upon receipt of a contribution from that person (often referred to as a ‘qualifying contribution’).
D.	The trustee provides a limited recourse loan to the employee, equivalent to the amount of the qualifying contribution, which the employee uses to make the contribution.

11. These examples are illustrative only and do not limit the types of employee benefit arrangements covered by this Ruling.

Capable of benefiting under the trust

12. Subparagraph 26AAB(14)(a)(iv) of the 1936 Act provides that a trustee will be an associate of a person if that person, or an associate of that person, '… is capable (whether by the exercise of a power of appointment or otherwise) of benefiting under the trust …'. The circumstances under which a person is **capable** of benefiting are very broad. Furthermore, the phrase 'whether by exercise of a power of appointment or otherwise' together with the fact that the capability of benefiting may be 'either directly or through any interposed companies, partnerships or trusts' confirms that the concept extends beyond presently existing beneficiaries.

13. The expression 'capable of' is not a technical term and will, therefore, take its ordinary meaning. Where a trust is established for the benefit of employees, on a literal construction, the fact that a person is an employee means that *prima facie* they fall within a class of persons who are 'capable of benefiting' under the trust.

14. Whether a person is capable of benefiting may depend on all the facts and circumstances. If the following indicia are present, there is a strong inference that a particular employee is in fact capable of benefiting under the trust:

- the potential beneficiaries, in respect of which the contribution has been made to the trustee, are employees and have sufficient connection with the income producing activities of the business to give rise to a deduction to the employer;
- the trust deed provides that only employees can become beneficiaries;
- loans to purchase units can only be made to employees nominated by the employer or invited by the trustee as part of an arrangement with the employer;
- employees are nominated by the employer as potential beneficiaries; or
- there are other indicia of a pre-ordained course of action to effect the provision of benefits to contemplated employees.

Power of appointment

15. A power of appointment is a power to create or grant beneficial interests in property (*Snell's Equity*, 29th ed). The objects of a power of appointment do not necessarily have any beneficial interests in the property subject to the power. Also, a trustee with a power of appointment may exercise the power to create new beneficial interests in the trust by appointing new beneficiaries (*Re Manisty's Settlement Trusts* [1973] 2 All ER 1203; *Re Hay's Settlement Trusts* [1981] 3 All ER 786).

16. It is considered that the expression 'capable of … benefiting under the trust' is not limited to circumstances where a person is a present beneficiary. The use of the words 'whether by exercise of a **power of appointment or otherwise**' [emphasis added] clearly indicates that a person need not be an existing beneficiary under the trust.

17. It is considered that the power to issue units in a unit trust constitutes a power of appointment, as it creates beneficial interests in property.

18. *Prima facie*, an employee is 'capable … of benefiting under the trust' if the employee is within a class, the members of which constitute the objects of a power of appointment. The matters outlined in paragraph 14 above would provide a strong inference that a particular employee is capable of benefiting under the trust.

Alternative views

19. An alternative view is that an employee who is not a beneficiary at the time the benefit is provided to the trustee, is not 'capable of benefiting under the trust'. We do not accept this view. Without derogating from the foregoing reasons, we consider that an employee is 'capable of benefiting' under a trust where the trust is established or becomes part of a pre-ordained arrangement to benefit certain employees.

20. A further alternative view is that the definition of associate only extends to a trustee in its individual capacity and not to its capacity as trustee. Such a view is founded on the fact that, in the case of partnerships, a contradistinction is made in subparagraph 26AAB(14)(a)(ii) between a 'partner of the taxpayer or a partnership in which the taxpayer is a partner'. The view contends that, had the intention been to include the trustee in its capacity as trustee, subsection 26AAB(14) would have explicitly said so.

21. It is considered that the terms of paragraph 26AAB(14)(a)(iv) do not admit such a construction. The provision clearly and unambiguously refers to a 'trustee **of a trust estate**' [emphasis added]

and, in this context, the words 'in its capacity as trustee' would be otiose. Unless stated otherwise, a reference to a 'trustee of a trust estate' is self-evidently a reference to its capacity as trustee.

Anti-avoidance

22. Depending on the facts and circumstances, if the arrangement is for the sole or dominant purpose of avoiding the associate rules, the Commissioner may make a determination under section 67. For example, in the context outlined in paragraphs 9 and 10 above, it is considered that it is reasonable to conclude that these arrangements are designed and implemented in a way that seeks to avoid the associate test.

23. Another example where section 67 may apply is where the arrangement involves establishing a new trust annually as a further attempt to circumvent the associate test.

Arrangement

24. Where, in respect of the employment of an employee, a benefit is provided by a person - 'the provider' - to another person (other than the employee or an associate of an employee) - 'the third party recipient' - subsection 148(2) deems the third party recipient of the benefit to be an associate of the employee where the benefit is provided under 'an arrangement' between the provider and the employee or an associate of the employee.

25. 'Arrangement' is defined in subsection 136(1) as:

> '(a) any agreement, arrangement, understanding, promise or undertaking, whether express or implied, and whether or not enforceable, or intended to be enforceable, by legal proceedings; and
>
> (b) any scheme, plan, proposal, action, course of action or course of conduct, whether unilateral or otherwise;'.

26. Subsection 148(2) provides that the arrangement be between:

> '(c) the provider, the employer or an associate of the employer; and
>
> (d) the employee or a person who, but for this subsection, is an associate of the employee,'.

27. It is considered that an arrangement between a provider who is also an employer, and an employee (or associate of the employee), satisfies the terms of subsection 148(2).

28. Whether or not there is an arrangement pursuant to subsection 148(2) will depend upon the circumstances of each case. However, it

is considered that there will be an arrangement where the employee or employees who become beneficiaries also control, or have the ability to control the employer. In the circumstance where the employee or employees do not control the employer, there will be an arrangement where the benefits under the employee benefit trust or non-complying superannuation fund are expressly or impliedly included in the employee's remuneration package.

Alternative view

29. It is arguable that for subsection 148(2) to apply, there must be a tri-partite agreement. That is, between the provider, the employer and the employee or associate of the employee. This view depends upon a construction of paragraph 148(2)(c) that the provider and the employer must be different persons.

30. However, it is considered that the better view of paragraph 148(2)(c) is that it is to be read disjunctively. That is, the agreement must be between the provider **or** the employer **or** an associate of the employer and the employee or an associate of the employee. Such a construction would mean that the employer can also be the provider.

31. The disjunctive reading is consistent with the flexibility needed to be applied to the concept of an arrangement where it is open for the parties themselves to determine their own roles.

Benefit

32. Section 40 provides that where a person (the 'provider') provides property to another person (the 'recipient'), the provision of the property 'shall be taken to constitute a benefit provided by the provider to the recipient'.

33. Property is defined in subsection 136(1) as 'intangible property' and 'tangible property'. 'Tangible property' is, in turn, defined as 'goods and includes animals, including fish; and gas and electricity'. 'Intangible property' is defined as:

> '(a) real property;
>
> (b) a chose in action; and
>
> (c) any other kind of property other than tangible property,
>
> but does not include -
>
> (d) a right arising under a contract of insurance; or
>
> (e) a lease or licence in respect of real property or tangible property;'.

Is money property?

34. Notwithstanding its use as a medium of exchange (see *Moss v. Hancock* [1899] 2 QB 111 at 116), for the following reasons we take the view that money is 'property' for the purposes of section 40.

35. The courts have long held that money is a form of property. For example, in *Higgs v. Holiday* (1599) Cro Eliz 746; 78 ER 978, the court held that, in respect of money 'where the owner of property lost the possession of it, he had lost the property in it'. Similarly, in *Wookey v. Pole* (1820) 4 B & Ald 1; 106 ER 839, the court held that, in the case of money, the property passes with delivery. In describing the nature of money, Best J said that 'by the use of money the interchange of all other property is most readily accomplished'.

36. At common law, money has been regarded as the specific property of its owner and, therefore, capable of being subject to an action for restitution (*Clarke v. Shee* (1714) 1 Cowp 197 at 200-201 per Lord Mansfield). Furthermore, it is well established that, if money is stolen, the owner may trace it and recover it 'as the property of the client' if it has been received by a third person otherwise than in good faith for valuable consideration: *Taylor v. Plumner* (1815) 3 M & S 562 at 575; *Banque Belge v. Hambrouck* [1921] 1 KB 321 at 330 per Scrutton LJ. More recently, in *Lipkin Gorman v. Karpnale Ltd* [1991] 2 AC 548, Lord Goff held that money was the legal property of its owner and capable of restitution. The courts in the United States of America have similarly held this to be so; e.g., *Newco Rand Co v. Martin* 213 S W 2nd 504 (1948) at 509.

37. In *Sinclair v. Brougham* [1914] AC 398 a claim to recover money in a bank account was held to be *in rem*, i.e., a claim to 'follow and recover property' (at 418 per Viscount Haldane LC).

38. In bankruptcy and liquidation proceedings the property of the bankrupt or company vests in the official trustee or liquidator. For these purposes, money is the property of the bankrupt or company (see *In re Leslie Engineers Co Ltd (in Liq)* [1976] 1 WLR 292).

Statutory context

39. The FBTAA contemplates that money is property and capable of constituting a fringe benefit. So much is evident from the definition of 'fringe benefit' in subsection 136(1) which specifically excludes:

> '(hb) a benefit constituted by the acquisition by a trust of **money or other property** where the sole activities of the trust are obtaining shares ...' [emphasis added].

40. Moreover, paragraphs 136(1)(j) to 136(1)(p), which exclude certain payments of money from the definition of fringe benefit,

demonstrate a manifest intention that payments of money can constitute a fringe benefit, otherwise such exclusions would be otiose.

Intangible property

41. While money is property, it may not be 'tangible property' as that term is defined in subsection 136(1). This is because it is not generally considered as 'goods' (*Miller v. Race* (1758) 1 Burr 452; *Sale of Goods Act 1923* (NSW), section 5; *Goods Act 1958* (Vic), section 3; *Sale of Goods Act 1896* (Qld), section 3; *The Sale of Goods Act 1895* (WA), section 60; etc).

42. However, as the definition of intangible property includes 'any other kind of property other than tangible property', money, as a form of property, will fall within this definition.

Property fringe benefit

43. Subsection 136(1) defines 'property benefit' as a benefit referred to in section 40. Pursuant to the operation of sections 136 and 40, the provision of the property (i.e., the money) to the trustee is a property benefit provided by the employer to the associate (i.e., the trustee).

44. To be subject to FBT, a property benefit needs to be a 'fringe benefit' (i.e., a 'property fringe benefit'). The definition of 'fringe benefit' in subsection 136(1) is as follows:

> ' "**fringe benefit**", in relation to an employee, in relation to the employer of the employee, in relation to a year of tax, means a benefit -
>
> (a) provided at any time during the year of tax; or
>
> (b) provided in respect of the year of tax,
>
> being a benefit provided to the employee or to an associate of the employee by -
>
> (c) the employer;
>
> (d) an associate of the employer; or
>
> (e) a person (in this paragraph referred to as the "**arranger**") other than the employer or an associate of the employer under an arrangement between -
>
> (i) the employer or an associate of the employer; and
>
> (ii) the arranger or another person,
>
> in respect of the employment of the employee …'.

45. The definition of fringe benefit in subsection 136(1) is in relation to 'an employee'. It is considered that there will be a fringe benefit, notwithstanding the payment of the money to the trust is not in respect of a specific employee. Such a construction is the natural consequence of the use of the indefinite article 'an'. It is sufficient if the benefit is provided in relation to employees generally.

46. Alternatively, where the contribution is not made in respect of a particular employee or employees, the benefit will be provided in relation to each and every employee (as the trust or non-complying superannuation fund may be for the benefit of all employees).

47. The foregoing construction of the definition of fringe benefit is supported by the fact that paragraph 136(1)(hb) specifically exempts from the definition:

> 'a benefit constituted by the acquisition by a trust of money or other property where the sole activities of the trust are obtaining shares … in a company … of the employer, and providing those shares … **to employees of the employer**;' [emphasis added].

48. Such an exclusion would be otiose if the definition of fringe benefit did not include benefits provided to an associate of the employees in respect of the employees generally.

49. An alternative view relies on the reference to 'the employee' in paragraph (b) of the definition of fringe benefit. As outlined above, we do not accept this view.

Taxable value

50. Where the payment of money constitutes a property fringe benefit, the taxable value of the benefit will be determined by section 43.

51. Section 43 provides that the taxable value of an external property fringe benefit is:

> '(a) where the provider was the employer or an associate of the employer and the recipients property was purchased by the provider under an arm's length transaction at or about the provision time - the cost price of the recipients property to the provider;
>
> (b) where the provider was not the employer or an associate of the employer and the employer, or an associate of the employer, incurred expenditure to the provider under an arm's length transaction in respect of the provision of the property - the amount of that expenditure; or

(c) in any other case - the notional value of the recipients property at the provision time,

reduced by the amount of the recipients contribution.'

52. The provision of money will not involve the 'purchase' of the property that is provided to the recipient. Therefore, in the case where an employer or an associate of the employer makes the payment of money, paragraph 43(c) will apply.

53. 'Notional value' is defined in subsection 136(1) as 'the amount that the person could reasonably be expected to have been required to pay to obtain the property from the provider under an arm's length transaction'.

54. In the case of money, the notional value will be the face value of the money paid by the provider. That is the amount that would reasonably be expected to have been paid in the open market.

Alternative views

55. An alternative view is that when property is provided to an associate of the employee and the associate is a trustee, the trustee is not the recipient of the benefit as it takes the benefit subject to the terms of the trust and, therefore, cannot have the full use and enjoyment of that benefit.

56. However, it is considered that the better view is that the trustee is the recipient of the benefit. There is no requirement in the FBTAA that the recipient of a benefit have the full use and enjoyment of it. 'Recipient' is defined in subsection 136(1) as 'the person to whom the benefit is provided'. Therefore, as the trustee is the person to whom the benefit is provided, it is *ipso facto* the recipient of the benefit.

57. Similarly, the definition of 'provide' in subsection 136(1), in relation to property, does not contain any restrictions that would limit the application of FBT where a benefit is provided to a person who did not have the full use and enjoyment of the benefit. Indeed, it is contemplated that property could be provided to a trustee who must use the property under the terms of the trust. So much is evident from the definition of 'provide' which, in relation to property, means:

'dispose of (whether by sale, gift, **declaration of trust** or otherwise) [emphasis added] -

(i) if the property is a beneficial interest in property but does not include legal ownership - the beneficial interest; or

(ii) in any other case - the legal ownership of the property;'.

58. Therefore, as the payment of money to the trustee is the disposal of the legal ownership of the property, the property has thus been provided to the trustee.

59. A further alternative view is that the notional value of the property benefit is nil. As the trustee cannot use the money itself but must hold it on trust, it therefore would reasonably be expected to have paid no consideration to obtain the property.

60. It is considered that such a view is misconceived. As Gibbs CJ outlined in *Queensland v. The Commonwealth* (1987) 162 CLR 74 at 83, the subject of FBT is the value of the benefits provided by the employer and not the value of the benefits received by the employee (or associate). The provision of a benefit will, nonetheless, be a benefit notwithstanding that the benefit is surplus to the needs or wants of the recipient or whether the benefit is offset by any inconvenience or disadvantage (paragraphs 148(1)(c) and 148(1)(e)).

61. In any case, due to its intrinsic nature, money represents wealth or purchasing power and, as legal tender, the value of money is measured by the sum which it bears on its face (*Banco de Portugal v. Waterlow & Sons Ltd* [1932] AC 452 at 508 per Lord Macmillan). Thus, the amount a person could reasonably be expected to pay to obtain the property (i.e., the money) under an arm's length transaction is its face value. Therefore, the 'notional value' of the money paid to the trustee (i.e., the recipient's property) is its face value.

62. The argument that the notional value of the money is nil (or a value other than the face value) would lead to capricious and absurd outcomes. For example, if the property provided to the trustee was property other than money, the taxable value would ordinarily be the cost price of the property to the provider or the amount of expenditure incurred by the employer (paragraph 43(a) or 43(b)).

63. A different result would occur if the notional value of the money is not taken to be its face value, even though in substance the value of the benefit would generally be the same, no matter what form of property was provided.

64. Moreover, an interpretation that the notional value of money paid to a trustee is nil is contrary to the legislative intent that payments to non-complying superannuation funds are subject to FBT (explanatory memorandum accompanying *Taxation Laws Amendment Bill (No 4) 1994* at paragraph 7.101):

> 'Any contributions paid by an employer for eligible employees to a non-complying superannuation fund will be deductible … **However, these contributions will be fringe benefits and subject to tax under the FBTAA**' [emphasis added].

65. Prior to 1 July 1994, paragraph 136(1)(j) exempted from the definition of fringe benefit, a benefit constituted by the payment of

money to a superannuation fund. Paragraph 136(1)(j) was amended to ensure employer contributions paid to non-complying superannuation funds were fringe benefits. As such a benefit is a property benefit whose notional value, and thus taxable value, is the face value of the money.

Examples

Example 1

66. A unit trust is established in order to provide benefits to the employees of Eugene Pty Ltd. At the time the unit trust is established the only beneficiary is the 'Save Opera Society' (a registered charity). The trust deed provides that the only other units that can be issued are to employees at the invitation of the employer. Eugene Pty Ltd then makes a contribution of $100,000 to the trust. The trust then issues units to employees.

67. The trustee is an associate of the employees as they are a class of persons capable of benefiting under the trust and are, in fact, intended to benefit under the trust. Alternatively, the trustee is a deemed associate pursuant to section 148.

68. The contribution of $100,000 is the provision of a property fringe benefit. The benefit is an external property fringe benefit, the taxable value of which is the notional value of the money, that is, its face value ($100,000).

Example 2

69. A discretionary trust is established in order to provide benefits to the employees of Onegin Pty Ltd, the employees being a class of discretionary objects. The trustee has the power to distribute income or corpus to employees. Onegin Pty Ltd makes a contribution of $10,000 to the trustee.

70. The trustee is an associate of the employees as they are discretionary objects of the trust and are clearly 'capable of benefiting' under the trust by virtue of an exercise of the trustee's power of appointment. From the outset, they were intended to benefit under the arrangement.

71. The payment of $10,000 to the trustee constitutes a property fringe benefit. The taxable value of the benefit is $10,000.

Example 3

72. Fidelio Pty Ltd establishes a non-complying superannuation fund for the benefit of its employees. Fidelio Pty Ltd makes a contribution of $400,000 to the fund. The contribution remains unallocated until Fidelio Pty Ltd nominates an employee. The employee will become a member of the fund when the trustee receives a contribution from the employee.

73. The trustee of the non-complying superannuation fund is an associate of the employee for the reasons given in paragraph 67 above.

74. The $400,000 contribution to the non-complying superannuation fund constitutes the provision of a property fringe benefit with a taxable value of $400,000.

Detailed contents list

75. Below is a detailed contents list for this Ruling:

Commissioner of Taxation
19 May 1999

Previous draft:

Previously released as TR 98/D12

Related Rulings/Determinations:

TR 92/20

Subject references:

- arm's length transaction
- beneficial interest
- contradistinction
- declaration of trust
- FBT associates
- FBT employees
- fringe benefit
- in respect of employment
- intangible property
- non-complying superannuation funds
- notional value
- qualifying contribution
- recipient
- superannuation contributions
- tangible property
- trust beneficiaries
- trustees

Legislative references:

- FBTAA86 40
- FBTAA86 43
- FBTAA86 43(a)
- FBTAA86 43(b)
- FBTAA86 43(c)
- FBTAA86 67
- FBTAA86 136
- FBTAA86 136(1)
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- FBTAA86 136(1)(j)
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- FBTAA86 148(1)(e)
- FBTAA86 148(2)
- FBTAA86 148(2)(c)
- ITAA36 26AAB(14)
- ITAA36 26AAB(14)(a)(ii)
- ITAA36 26AAB(14)(a)(iv)
- ITAA36 82 AAE
- ITAA97 8-1

Case references:

- *Re Manisty's Settlement Trusts* [1973] 2 All ER 1203
- *Re Hay's Settlement Trusts* [1981] 3 All ER 786
- *Moss v. Hancock* [1899] 2 QB 111
- *Higgs v. Holiday* (1599) Cro Eliz 746; 78 ER 978
- *Wookey v. Pole* (1820) 4 B & Ald 1; 106 ER 839
- *Clarke v. Shee* (1714) 1 Cowp 197
- *Taylor v. Plumner* (1815) 3 M & S 562
- *Banque Belge v. Hambrouck* [1921] 1 KB 321
- *Lipkin Gorman v. Karpnale Ltd* [1991] 2 AC 548
- *Newco Rand Co v. Martin* 213 S W 2nd 504 (1948)
- *Sinclair v. Brougham* [1914] AC 398
- *Re Leslie Engineers Co Ltd (in Liq)* [1976] 1 WLR 292
- *Miller v. Race* (1758) 1 Burr 452
- *Queensland v. The Commonwealth* (1987) 162 CLR 74
- *Banco de Portugal v. Waterlow & Sons Ltd* [1932] AC 452

ATO references:
NO 98/9768-2
BO
FOI number: I 1015689
ISSN: 1039-0731
Price: $1.60