



TD 2025/D3 - Income tax: when does a private or public ancillary fund 'provide' a 'benefit'?

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Status: **draft only – for comment**

Draft Taxation Determination

Income tax: when does a private or public ancillary fund ‘provide’ a ‘benefit’?

📌 Relying on this draft Determination

This publication is a draft for public comment. It represents the Commissioner’s preliminary view on how a relevant provision could apply.

If this draft Determination applies to you and you rely on it reasonably and in good faith, you will not have to pay any interest or penalties in respect of the matters covered, if this draft Determination turns out to be incorrect and you underpay your tax as a result. However, you may still have to pay the correct amount of tax.

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What this draft Determination is about

1. Ancillary funds are charitable trusts established solely to fund and support eligible deductible gift recipients. Although ancillary funds are themselves deductible gift recipients, they do not undertake charitable work. Instead, they act as intermediaries between donors and eligible deductible gift recipients that do. They facilitate philanthropy by allowing donors to claim an immediate deduction for gifts, which are then distributed over time to eligible deductible gift recipients.
2. Ancillary funds benefit from favourable tax treatment, with income generally exempt from tax and donations to them deductible. Because these concessions could otherwise be misused for private benefit, Ancillary funds are governed by the *Taxation Administration (Private Ancillary Fund) Guidelines 2019*¹ and the *Taxation Administration (Public Ancillary Fund) Guidelines 2022*² (the Guidelines).
3. Ancillary funds must be endorsed as deductible gift recipients and meet strict conditions to retain that status, including compliance with the Guidelines. Section 8 of the Guidelines provides a set of general principles which frame how ancillary funds must be established, maintained, and wound up. Ancillary funds must be both philanthropic in character³ and vehicles for philanthropy.⁴ We have adopted interpretations of subsections 15(4) and 22(3) of the Guidelines which are consistent with these general principles.
4. This draft Determination⁵ sets out our view of when an ancillary fund is providing a benefit. It covers both private and public funds, which are governed by the respective Guidelines. Subsection 15(4) of the Guidelines says that an ancillary fund may make its mandatory distributions by 'the provision of money, property or benefits'. Subsection 22(3) of the Guidelines prohibits ancillary funds from providing benefits to certain related entities.
5. Specifically, this Determination explains our views on the meaning of:
 - the 'provision of ... benefits' in subsection 15(4) of the Guidelines, and
 - to 'provide any benefit, directly or indirectly' in subsection 22(3) of the Guidelines.
6. This Determination does not consider the meaning of 'money' or 'property' in subsection 15(4) of the Guidelines. This Determination does not apply to the meaning of 'sole benefit' in paragraph 21(6)(b) of the Guidelines, which should be read in its own context.

¹ The *Taxation Administration (Private Ancillary Fund) Guidelines 2019* are a legislative instrument made under section 426-110 of Schedule 1 to the *Taxation Administration Act 1953*. They set rules for deductible gift recipient endorsement and prescribe penalties for breaches by trustees, with liability extending to trustees and, in certain cases, directors of trustee companies.

² The *Taxation Administration (Public Ancillary Fund) Guidelines 2022* are a legislative instrument made under section 426-103 of Schedule 1 to the *Taxation Administration Act 1953*. They operate in a similar way to the *Taxation Administration (Private Ancillary Fund) Guidelines 2019* but with rules specific to public ancillary funds.

³ Paragraph 8(b) of the Guidelines.

⁴ Paragraph 8(c) of the Guidelines.

⁵ For readability, all further references to 'this Determination' refer to the Determination as it will be read when finalised. Note that this Determination will not take effect until finalised.

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Terms used in this Determination

7. For the purposes of this Determination:

- ‘Ancillary fund’ means both public and private ancillary funds as defined by sections 426-102 and 426-105 of Schedule 1 to the *Taxation Administration Act 1953* (TAA) respectively. It does not refer to an ancillary fund which is neither a public nor private ancillary fund.
- ‘DGR’ means a deductible gift recipient as defined in section 30-227 of the *Income Tax Assessment Act 1997* (ITAA 1997), which can receive gifts or contributions that are deductible under table item 1 of section 30-15 of that Act.
- ‘Guidelines’ refers to both the:
 - *Taxation Administration (Private Ancillary Fund) Guidelines 2019*, and
 - *Taxation Administration (Public Ancillary Fund) Guidelines 2022*.
- ‘Related entity’ means any of the following⁶:
 - a trustee of an Ancillary Fund
 - a member, director, employee, agent or officer of the trustee
 - a donor to the Ancillary Fund
 - a founder of the Ancillary Fund
 - a relative of an individual who is a donor or founder of the Ancillary Fund, or
 - an associate of any of those entities (other than a deductible gift recipient).
- ‘Trustee’, if an ancillary fund has 2 or more trustees, means all of those trustees jointly, or any of them severally, as the case requires.

8. All further legislative references in this Determination are to the Guidelines, unless otherwise indicated. All references in this Determination to a section in the Guidelines refer to the corresponding sections in both Guidelines.

Ruling

9. The word ‘benefit’ is not defined in the Guidelines, but some general observations can be made about its meaning before turning to its use in the specific context of each of the 2 provisions.

⁶ The terms ‘member’, ‘agent’, ‘relative’, ‘associate’ and ‘deductible gift recipient’ are each defined or partially defined in section 995-1 of the ITAA 1997. Some of these definitions incorporate references to other legislation. For instance, ‘associate’ takes the meaning given by section 318 of the *Income Tax Assessment Act 1936*.

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Meaning of ‘benefit’

10. The meaning of the word ‘benefit’ includes an advantage, a profit, or a gain.⁷ It is not limited to the payment of money or transfer of property. Its meaning may encompass anything that is for the good of a DGR or related entity and that puts them, or it, in a better or more favourable position.⁸ It may include the opportunity to pursue a position of discernible advantage, even where there is no certainty it will be awarded.⁹

11. An advantage comprising a ‘benefit’ may be immediate, future, or contingent.¹⁰ The benefit may take the form of an addition to the recipient’s operations and may also be provided by removing some detriment from the recipient. This may include the payment of a liability on another’s behalf, or the assumption of a liability that would otherwise be borne by another.¹¹

12. A benefit under subsection 22(3) may not necessarily qualify as a benefit under subsection 15(4). Although there is a general presumption that the same word used in the same legislative instrument bears the same meaning¹², the language of subsection 22(3) explicitly broadens both the concept of a ‘benefit’ and the act of ‘providing’ it. This broader construction reflects the distinct functions and objectives of the 2 provisions.¹³

13. The general observations at paragraphs 10 and 11 of this Determination apply equally to the words ‘benefits’ and ‘benefit’ in both subsection 15(4) and subsection 22(3). However, the more specific scope of these provisions is discussed in paragraphs 14 to 52 of this Determination.

Provision of benefits under subsection 15(4)

14. Subsection 15(1) requires an ancillary fund to make annual distributions to DGRs that meet or exceed the prescribed minimum amount.

15. Subsection 15(4) states:

A **distribution** is the provision of money, property or benefits. Where a fund distributes property or benefits, the market value of the property or benefit provided is to be used in determining whether the fund has complied with subsection (1).

16. For a benefit to qualify as a distribution under subsection 15(4), it must be provided to a DGR. The words ‘provision’ and ‘benefits’ are not defined in the Guidelines, though the word ‘provide’ is asterisked in subsection 22(3) and is defined in the ITAA 1997.¹⁴ An ancillary fund will only have provided a benefit if it has caused the DGR to have it.¹⁵ The benefit must be directly allowed, conferred, given, granted, or performed.

17. An ancillary fund may make a ‘distribution’ to a DGR by providing a benefit other than a transfer of cash or property. Subsection 15(4) provides examples of distributions of

⁷ *Vasudevan & Ors v Becon Const & Anor* [2014] VSCA 14 at [23]; Nygh P (ed) and Butt P (ed) (1997) *Butterworths Australian Legal Dictionary*, LexisNexis Butterworths, Sydney.

⁸ *Eldersmede Pty Ltd and Ors and Commissioner of Taxation* [2004] AATA 710 at [40].

⁹ *Moylan v The State of Western Australia* [2007] WASCA 52 at [63–69].

¹⁰ *The King v Jacobs Group (Australia) Pty Ltd* [2023] HCA 23 at [34], though the specific meaning given to the word ‘benefit’ in that case differs from that adopted in this Determination.

¹¹ This is consistent with the meaning provided in paragraph 35 of Taxation Ruling TR 95/27 *Income tax: public funds*.

¹² *Tabcorp Holdings Limited v State of Victoria* [2016] HCA 4 (note this case is not related to a legislative instrument).

¹³ The ‘same word, same meaning’ presumption readily yields to context, particularly where an instrument deals with a wide variety of topics: *Clyne v Deputy Federal Commissioner of Taxation* [1981] HCA 40.

¹⁴ The definition of ‘provide’ in subsection 995-1(1) of the ITAA 1997 is an inclusive rather than an exhaustive definition.

¹⁵ *Corporate Initiatives Pty Ltd v Commissioner of Taxation* [2005] FCAFC 62 at [30].

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benefits and how they are to be valued. The advantage, profit, or gain, provided under subsection 15(4) must be objectively ascertainable and it must present an actual benefit to the DGR. Moreover, the benefit must be capable of having a market value.

18. If the benefit does not consist of an immediate advantage, a legal right must be granted to the DGR, which will ultimately confer an advantage or gain. The benefit may be contingent on the satisfaction of conditions, but it must represent a right capable of enforcement once vested.

19. Subsection 15(4) refers only to net benefits. An ancillary fund does not provide a benefit to a DGR if it receives money, property or benefits of equal or greater value in return from the DGR.¹⁶ No benefit is provided where an ancillary fund deals with a DGR on commercial arm's length terms.

20. The examples set out beneath subsection 15(4) indicate that a gross benefit provided by an ancillary fund is not a 'distribution'. The meaning of 'distribution' in subsection 15(4) includes the provision of a benefit that is net of any corresponding money, property, or benefits received by the ancillary fund in relation to the distribution.

Example 1 – payment toward shared expenses

21. *The Gudgenby Ancillary Fund and the Molonglo DGR jointly engage Ainslie Accountants to perform accounting and auditing services. Under an informal arrangement, the Ancillary Fund agrees to pay the professional fees of Ainslie Accountants on behalf of the DGR. A joint tax invoice is sent by Ainslie Accountants to both the Ancillary Fund and the DGR on 30 June charging a total of \$30,000. It is itemised to indicate that \$10,000 of this is for services provided to the Molonglo DGR. The Gudgenby Ancillary Fund provides a \$10,000 benefit to the Molonglo DGR when it pays the invoice on 14 July.*

Non-binding promises of future payment

22. A promise of future payment by an ancillary fund to a DGR which is not legally binding is not a 'distribution' under subsection 15(4). A non-binding promise of a future payment creates, at most, the merest expectancy or possibility, which has no existence in contemplation of law and therefore does not amount to a benefit at the time it is made.¹⁷ Where a grant of future payment is executed in the form of a resolution, contract or deed, its enforceability under contract and trust law must be considered in determining whether it could amount to a distribution before payment is made.

23. This Determination does not set out every situation in which a promise of future payment may or may not bind an ancillary fund. However, because ancillary funds are charitable purpose trusts in which the trustee holds a discretionary power of distribution, the general trust law principles governing the exercise of that discretion are relevant.

24. A promise of a future payment can only be binding if, when the promise is made, the trustee exercises a power that the trust deed permits to be used at that time in relation to the relevant income or capital.

¹⁶ Benefits may be reduced in quantum by corresponding receipts: refer to paragraph 32 of this Determination.

¹⁷ *Norman v Federal Commissioner of Taxation* [1963] HCA 21, per Dixon CJ.

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25. A promise to make a payment in a future year will not generally be binding where¹⁸:

- the trustee commits in advance to the outcome of a discretion that must be exercised later
- the promise prevents the trustee from making a discretionary decision at the time the payment is to be made, or
- the trust deed does not allow that power to be used at the time of the promise.

26. Promises may also be unenforceable for other reasons. For example, a letter outlining the trustee's intention to make a future payment, or some other revocable promise, is unlikely to provide a 'benefit' to a DGR as the ancillary fund would not be legally bound by these promises. In these circumstances, the promise has no legal effect, and no benefit is provided to the DGR until a payment is actually made.

27. An amount paid under a non-binding promise is a distribution only in the year in which it is paid.

Example 2 – grant notified by way of letter and book entry

28. *In the 2026 reporting year, the Tamar Ancillary Fund advises Mersey DGR by way of letter of its intention to make a \$2 million payment to it in the 2028 reporting year. At the same time, it records a \$2 million debt payable to Mersey DGR in its balance sheet to reflect this promised payment.*

29. *No benefit is provided by the Tamar Ancillary Fund in the 2026 reporting year as the notice of intention does not confer a legal right on Mersey DGR. It will be entitled to count the full \$2 million payment toward its minimum annual distribution requirements in the 2028 year when the sum is actually paid.*

Valuation of benefits under subsection 15(4)

30. Under subsection 15(4), the 'market value' of a distribution is to be used to determine whether an ancillary fund has complied with its minimum annual distribution requirements. The market value is to be assessed having regard to objective circumstances.

31. The examples set out beneath subsection 15(4) provide direction as to how specific benefits can be valued. The examples relevant to the valuation of benefits are:

- Example 2: A grant of a lease of office space is provided by the ancillary fund to the DGR at a discount to the market price. The market value of the benefit to the DGR is determined as an amount equal to the discount.
- Example 3: An investment by an ancillary fund in a social impact bond issued by a DGR provides a return less than the market rate on a similar corporate bond issue. The market value of the benefit to the DGR is determined as an amount equal to the interest saved by the DGR from issuing a bond at a discounted rate of return.

¹⁸ *Thacker v Key* (1869) LR 8 Eq 408; *Moore v Clench* (1875) 1 ChD 447; *Re Vestey's Settlement* (1951) ChD 209.

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- Example 4: A loan of money by an ancillary fund to a DGR is offered at a discounted interest rate. The market value of the benefit to the DGR is determined as an amount equal to the discount to the interest rate which would be charged on a comparable loan sourced from a financial institution at arm's length.
- Example 5: A guarantee is provided by an ancillary fund on a loan provided by a financial institution to a DGR. The market value of the benefit is an amount equal to the discount to the interest rate which would otherwise be charged on a comparable arm's length unsecured loan sourced from that financial institution.

32. The market value of the benefit provided must represent the net benefit to the DGR rather than the gross benefit, and must:

- be determined in the hands of the DGR
- subtract the value of any consideration given by the DGR, and
- account for the impact of any conditions attaching to the benefit.

Provision of benefits under subsection 22(3)

33. Subsection 22(3) states:

The trustee of [an ancillary fund] must ensure the fund does not provide any benefit (except as set out in section 23), directly or indirectly, to [a related entity].

Penalty: An amount equal to the amount or value of the benefit provided.

34. Subsection 22(3) is an integrity provision that prohibits an ancillary fund from providing direct or indirect benefits to a related entity. The ancillary fund's trustee has a positive duty to ensure that these benefits are not provided. Every person or entity listed in subsection 22(3) and their associates as determined by section 318 of the *Income Tax Assessment Act 1936* (ITAA 1936) is a related entity.

35. Despite subsection 22(3), the trustee is not prohibited from applying the income or capital of the fund to:

- pay or reimburse themselves for reasonable expenses incurred on behalf of the fund¹⁹, and
- pay themselves fair and reasonable remuneration for their services in administering the fund.²⁰

Provide any benefit

36. The word 'provide' is asterisked in subsection 22(3) and is defined in subsection 995-1(1) of the ITAA 1997.²¹ A benefit is provided under subsection 22(3) if it is allowed, conferred, given, granted, or performed. Benefits may be provided under informal arrangements.

¹⁹ Paragraph 23(a).

²⁰ Paragraph 23(b).

²¹ The definition of 'provide' in subsection 995-1(1) of the ITAA 1997 is an inclusive rather than an exhaustive definition.

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37. In the context of subsection 22(3), ‘benefit’ is not limited to a financial gain but can encompass any advantage or improvement of position.²² When an ancillary fund relieves a related entity of an obligation or liability, this may constitute a benefit. This extends to payments or arrangements involving third-party creditors. Even where the related entity receives nothing directly, relief from a burden is itself a benefit.²³

38. The term ‘any benefit’ in subsection 22(3) has a broad meaning. It includes opportunities that place the related entity in an improved position or provide an advantage, even if the ultimate outcome is uncertain.²⁴

39. An unvested right to pursue an advantage may also fall within the wide meaning of the term. A set of executory, and conditional, rights conferred by an ancillary fund on a related entity may amount to a prohibited benefit, particularly if the value of those rights is not negated by the value of any corresponding consideration transferred to the ancillary fund.

40. Placing a related entity of an ancillary fund in a better or more favourable position is a benefit. Where a transaction does not contribute to the net financial entitlements of a related entity, it may still be a benefit if it improves their cash flow.²⁵

41. A dealing covered by section 21 or subsection 22(1), such as a borrowing, grant of security, investment, loan, financial assistance or uncommercial transaction, may also constitute a benefit under subsection 22(3) if it is to the advantage, profit or good of a related entity. In that case, the penalty in subsection 22(3) may apply.

Example 3 – shared expenses borne disproportionately

42. *The Onkaparinga Ancillary Fund co-leases 3 floors of an office block with Eyre Co. Samantha, the wife of the founder of the Ancillary Fund, has a majority voting interest in Eyre Co. Although the Ancillary Fund occupies only half a floor, it pays the same total rent as Eyre Co, which occupies 2 and a half floors.*

43. *Eyre Co is a related entity of the Ancillary Fund.²⁶ The arrangement effectively allows Eyre Co to occupy an entire floor without paying rent for it. This constitutes a benefit to Eyre Co. As a result, the trustee of the Ancillary Fund is liable to pay a penalty equal to the value of the benefit.²⁷*

Providing benefits by omission

44. Ancillary funds can also provide benefits by omission. This may include failing or refusing to take actions, such as not requiring related entities to fulfill a financial obligation and thereby allowing them to retain use of funds.²⁸

²² *Owners-Strata Plan No 50530 v Walter Construction Group Ltd* [2001] NSWSC 820.

²³ *Vasudevan & Ors v Becon Const & Anor* [2014] VSCA 14 at [23].

²⁴ *Moylan v The State of Western Australia* [2007] WASCA 52.

²⁵ *Corporate Initiatives Pty Ltd v Commissioner of Taxation* [2005] FCAFC 62.

²⁶ Samantha is an ‘associate’ according to sub-subparagraph 318(1)(e)(ii)(B) of the ITAA 1936. Section 318 of the ITAA 1936 defines ‘associate’ for the purpose of the ITAA 1997 and the Guidelines.

²⁷ This arrangement may contravene other provisions of the Guidelines, which are not addressed by this Determination. The trustee also owes fiduciary obligations according to trust law which are likewise not addressed by this Determination.

²⁸ *Corporate Initiatives Pty Ltd v Commissioner of Taxation* [2005] FCAFC 62.

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Example 4 – penalty clause not enforced

45. *The Gascoyne Ancillary Fund enters into an agreement on commercial terms with Argyle Co, a company owned by the Ancillary Fund’s major donor. The agreement requires Argyle Co to deliver services by 30 June and includes a \$10,000 penalty for late performance.*

46. *Argyle Co misses the deadline, but the Ancillary Fund decides not to enforce the penalty. The Ancillary Fund’s decision provides a benefit to a related entity. The trustee is liable to pay a penalty equal to the value of that benefit.*

Direct or indirect benefits

47. The phrase ‘directly or indirectly’ expands the scope of how benefits may be provided. A benefit can be conferred other than through the ancillary fund’s direct conduct. A benefit may be indirectly provided to a related entity even if they are not a party to a transaction with an ancillary fund. The overall impact of an ancillary fund’s dealings is to be considered in determining if the fund provides any benefit under subsection 22(3). This ensures that any contributory action, or inaction, by the ancillary fund leading to a benefit is captured, whether that benefit is provided directly or through another party.²⁹

Example 5 – benefit provided indirectly

48. *Adele is a founder of the Barwon Ancillary Fund. She lends her friend Pascal \$300,000 to assist his construction business through financial difficulties. He falls behind in making repayments to Adele and seeks bankruptcy advice. After he defaults on the loan, the Barwon Ancillary Fund grants a DGR \$500,000 on condition that it be used to build a community centre, which is to be constructed by Pascal’s business.*

49. *Pascal is not a related entity of the Ancillary Fund. However, the distribution to the DGR indirectly provides a benefit to Adele as Pascal is able to avoid bankruptcy and repay his debt to her. Adele is a related entity. The Trustee of the Ancillary Fund is liable to pay a penalty equal to the value of the benefit provided to Adele.*

Example 6 – benefit provided indirectly

50. *An Ancillary Fund grants \$10 million to Snowy DGR for the construction of 100 affordable housing units. A condition of the grant is that Snowy must engage Burra Creek Constructions Co to carry out the work. Burra Creek Constructions is owned by the wife of the founder of the Ancillary Fund and is therefore a related entity.*

51. *Burra Creek Constructions charges Snowy DGR standard market rates for the project. However, the construction contract is expected to generate a profit for the company. Because the Ancillary Fund requires Snowy DGR to engage a related entity, it indirectly provides a benefit by placing Burra Creek Constructions in a position to earn a*

²⁹ *Eldersmede Pty Ltd and Ors and Commissioner of Taxation* [2004] AATA 710.

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profit. The trustee is liable to pay a penalty equal to the value of the benefit provided to Burra Creek Constructions.

Valuation of benefits under subsection 22(3)

52. The quantum of the benefit is the value provided directly or indirectly by the ancillary fund to the related entity. All relevant circumstances will be taken into account when determining the amount or value of the benefit.

Date of effect

53. When the final Determination is issued, it is proposed to apply both before and after its date of issue. However, the Determination will not apply to taxpayers to the extent that it conflicts with the terms of settlement of a dispute agreed to before the date of issue of the Determination (see paragraphs 75 to 76 of Taxation Ruling TR 2006/10 *Public rulings*).

54. Guidelines 19.3 and 42 of the *Private Ancillary Fund Guidelines 2009* and the *Public Ancillary Fund Guidelines 2011* were framed in similar, though not identical, terms to the provisions considered in this Determination. While we are not bound to apply this Determination to those earlier Guidelines, we will generally adopt a consistent interpretive approach to the extent the earlier provisions use the same language as the current Guidelines.

Commissioner of Taxation

12 November 2025

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Appendix – Your comments

55. You are invited to comment on this draft Determination including the proposed date of effect. Please forward your comments to the contact officer by the due date.

56. A compendium of comments is prepared when finalising this Determination, and an edited version (names and identifying information removed) is published to the Legal database on ato.gov.au. Please advise if you do not want your comments included in the edited version of the compendium.

Due date: 30 January 2026

Contact officer details have been removed as the comments period has ended.

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References

Related rulings and determinations:

TR 95/27; TR 2006/10

Legislative references:

- ITAA 1936 318
- ITAA 1936 318(1)(e)(ii)(B)
- ITAA 1997 30-15
- ITAA 1997 30-227
- ITAA 1997 995-1
- TAA 1953 Sch 1 426-103
- TAA 1953 Sch 1 426-110
- Private Ancillary Fund Guidelines 2009 (repealed)
- Public Ancillary Fund Guidelines 2011 (repealed)
- Taxation Administration (Private Ancillary Fund) Guidelines 2019 8
- Taxation Administration (Private Ancillary Fund) Guidelines 2019 15(1)
- Taxation Administration (Private Ancillary Fund) Guidelines 2019 15(4)
- Taxation Administration (Private Ancillary Fund) Guidelines 2019 21(7)
- Taxation Administration (Private Ancillary Fund) Guidelines 2019 22(1)
- Taxation Administration (Private Ancillary Fund) Guidelines 2019 22(3)
- Taxation Administration (Private Ancillary Fund) Guidelines 2019 22(3)(a)
- Taxation Administration (Private Ancillary Fund) Guidelines 2019 22(3)(b)
- Taxation Administration (Private Ancillary Fund) Guidelines 2019 23
- Taxation Administration (Public Ancillary Fund) Guidelines 2022 8
- Taxation Administration (Public Ancillary Fund) Guidelines 2022 15(1)
- Taxation Administration (Public Ancillary Fund) Guidelines 2022 15(4)
- Taxation Administration (Public Ancillary Fund) Guidelines 2022 21(7)
- Taxation Administration (Public Ancillary Fund) Guidelines 2022 22(1)
- Taxation Administration (Public Ancillary Fund) Guidelines 2022 22(3)

- Taxation Administration (Public Ancillary Fund) Guidelines 2022 22(3)(a)
- Taxation Administration (Public Ancillary Fund) Guidelines 2022 22(3)(b)
- Taxation Administration (Public Ancillary Fund) Guidelines 2022 23

Case references:

- *Clyne v Deputy Federal Commissioner of Taxation* [1981] HCA 40; 150 CLR 1; 81 ATC 4429; 12 ATR 173
- *Corporate Initiatives Pty Ltd v Commissioner of Taxation* [2005] FCAFC 62; 142 FCR 279; 2005 ATC 4392; 59 ATR 351; 219 ALR 339
- *Eldersmede Pty Ltd and Ors and Commissioner of Taxation* [2004] AATA 710; 2004 ATC 2129; 56 ATR 1179
- *Moore v Clench* (1875) 1 ChD 447
- *Moylan v The State of Western Australia* [2007] WASCA 52; [2007] ALMD 6517
- *Norman v Federal Commissioner of Taxation* [1963] HCA 21; 109 CLR 9; 37 ALJR 49
- *Owners-Strata Plan No 50530 v Walter Construction Group Ltd* [2001] NSWSC 820
- *Re Vestey's Settlement* (1951) ChD 209
- *Tabcorp Holdings Limited v State of Victoria* [2016] HCA 4; [2016] ALMD 2015; 90 ALJR 376
- *Thacker v Key* (1869) LR 8 Eq 408
- *Vasudevan & Ors v Becon Const & Anor* [2014] VSCA 14; 41 VR 445

Cases distinguished:

- *The King v Jacobs Group (Australia) Pty Ltd* [2023] HCA 23; 280 CLR 170; (2023) 411 ALR 202; (2023) 97 ALJR 595

Other references:

Nygh P (ed) and Butt P (ed) (1997) *Butterworths Australian Legal Dictionary*, LexisNexis Butterworths, Sydney

ATO references

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