


TD 93/D233 - Income tax: in 'section 99 assessments' of resident trust estates, other than deceased estates, is the trustee taxed at the resident individual rates?

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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: in 'section 99 assessments' of resident trust estates, other than deceased estates, is the trustee taxed at the resident individual rates?

1. No. Tax is payable when the net trust income exceeds \$416.
2. If the net income of the resident trust estate does not exceed \$416, subsection 14 (1) of the *Income Tax Rates Act 1986* (ITRA) provides that no tax is payable.
3. If the net income of the resident trust estate exceeds \$416, but does not exceed \$693, subsection 14 (2) of the ITRA provides that the tax payable is 50% of the excess of the net income over \$416.
4. If the net income of the resident trust estate exceeds \$693, Schedule 10 (part 1, clause 2) of the ITRA provides that the rate of tax is the resident individual rates set out in Schedule 7 (part 1, clause 1), except that no tax-free threshold is available.

Example

The ABC trust was established directly from the proceeds of a workers' compensation claim. For the year ended 30 June 1993 the net income of the trust to which no beneficiary was presently entitled was \$1,000. As the net income of the trust exceeds \$416 the trustee will have a tax liability. Tax payable will be \$200 (ie 20% of \$1,000) calculated under schedule 7 (part 1, clause 1) as modified by Schedule 10 (part 1, clause 2).

Commissioner of Taxation
9/9/93

FOI INDEX DETAIL: Reference No.

Related Determinations: TD 92/192

Subject Ref: tax free threshold ; trusts

Legislative Ref: ITAA 99; ITAA 99A(2); ITRA 14(1), 14(2), Sch 7 (part 1, cl. 1), Sch 10 (part 1, cl. 2)

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