



TD 93/193 - Income tax: where a trustee is assessed under subsection 98(1) of the Income Tax Assessment Act 1936 and the income of the trust includes prescribed payments, are both the resident beneficiary of the trust who is under a legal disability, as well as the trustee, entitled to prescribed payments system (PPS) credits ?

 This cover sheet is provided for information only. It does not form part of *TD 93/193 - Income tax: where a trustee is assessed under subsection 98(1) of the Income Tax Assessment Act 1936 and the income of the trust includes prescribed payments, are both the resident beneficiary of the trust who is under a legal disability, as well as the trustee, entitled to prescribed payments system (PPS) credits ?*

 This document has changed over time. This is a consolidated version of the ruling which was published on 7 October 1993

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, this Determination applies to years commencing both before and after its date of issue. However, this Determination does not apply to taxpayers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of issue of the Determination (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

Taxation Determination

Income tax: where a trustee is assessed under subsection 98(1) of the *Income Tax Assessment Act 1936* and the income of the trust includes prescribed payments, are both the resident beneficiary of the trust who is under a legal disability, as well as the trustee, entitled to prescribed payments system (PPS) credits ?

1. No, the PPS credit is offset against the trustee's assessment but not against the beneficiary's assessment.
2. By virtue of paragraph 221YHF(3)(b) the trustee is entitled to a PPS credit where the trustee is liable to be assessed under subsection 98(1).
3. The PPS credit is limited by subsection 221YHG(3) to the amount of the tax payable by the trustee in that year. Any excess may then be applied against the tax payable by the trustee in any other years, again limited to the amount of the tax payable.
4. In the circumstances outlined above, if a beneficiary derives other income and is required to include the trust distribution by virtue of subsection 100(1) there is no provision in the Act to offset the same credit against the assessment of the beneficiary. However, where a beneficiary is assessable under sub-section 100(1), subsection 100(2) entitles the beneficiary to a credit equal to the tax paid or payable by the trustee. Consequently the credit allowed to the beneficiary is not reduced by the PPS credit offset against the trustee's assessment.

EXAMPLE:

During the year ended 30 June 1993 the XYZ Trust derived a net profit of \$10,000 and is entitled to a PPS credit of \$2,000. The sole beneficiary "A" is presently entitled to the trust income, but as a minor, is under a legal disability. In addition to the entitlement to the trust distribution "A" derived \$3,000 of interest during the year. All income is assessable under the provisions of Division 6AA.

TRUSTEE

The XYZ Trust would be assessed as follows :-
follows:-

BENEFICIARY

The beneficiary "A" would be assessed as

		Interest s25(1)	\$3,000
		Trust distribution, s100(1)	<u>\$10,000</u>
Taxable income	<u>\$10,000</u>	Taxable Income	<u>\$13,000</u>
Tax Payable on \$10,000 @ 47% \$4,700 Tax Payable on \$13,000 @ 47%\$6,110			
		<u>Less</u>	
PPS credit para.221YHF(3)(b)	<u>\$2,000</u>	Section 100(2) credit	<u>\$4,700</u>
Net amount payable	<u>\$2,700</u>	Net amount payable	<u>\$1410</u>

Commissioner of Taxation

7/10/93

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