

YEAR-END TRUST DISTRIBUTIONS

June 2022

The net income of a trust is the total assessable income of the trust less allowable deductions.

A beneficiary who is presently entitled to a share of the net income of the trust includes the income of the trust in their income tax return.

Prior to year end, a trustee of a trust should prepare trust resolutions to distribute the net income of a trust. A trustee resolution determines the amount of distributable income the beneficiaries of the trust should receive.

Most trust deeds generally require such discretion to be exercised by 30 June each year.

If a trustee intends to distribute trust income to a corporate beneficiary, the trustee needs to ensure that the legal entity has been established. If corporate beneficiaries are not established before year-end, they are unable to be nominated as beneficiaries.

Where a trust distribution can not be paid out as a cash distribution to the beneficiaries of a trust, care must be taken as to how any unpaid presently entitled distributions of the trust are treated for tax purposes.

In February 2022, the Australia Taxation Office (**ATO**) published draft views regarding the operation of certain anti avoidance rules regarding the taxation of trust and where a trust distribution involves a reimbursement agreement. One particular type of trust distribution scenario which will attract future ATO audit attention is where the parents of a family trust benefit from a trust distribution paid to child beneficiary(s) who are over 18 years of age and in circumstances where the child does not receive the cash distribution from the trust.

Given these draft ATO views, care should be taken when drafting trustee resolutions and prior to year end. If you would like to make an appointment for further discussion regarding your trust distribution and prior to year end, please feel free to contact your Hall Chadwick advisor.

At the date of this publication, the new Federal Labour Government had not made any written announcements regarding any significant changes to the taxation of trusts.