Streaming trust capital gains and franked distributions

A trust capital gain or franked distribution may be streamed to beneficiaries for tax purposes.

Last updated 27 June 2024

This information is for trustees and beneficiaries of trusts that make capital gains or receive franked distributions.

A trust's capital gains and franked distributions can, if not prevented by the trust deed, be streamed to beneficiaries for tax purposes by making them specifically entitled to the amounts.

This allows beneficiaries to offset capital gains with their capital losses, apply applicable discounts and, subject to integrity rules, get the benefit of any franking credits attached to a franked distribution.

Capital gains and franked distributions to which no beneficiary is specifically entitled are allocated proportionately to beneficiaries based on their present entitlements to trust income (calculated by excluding capital gains and franked distributions to which any entity is specifically entitled). The trustee is taxed in respect of any amounts to which no beneficiary is specifically or presently entitled.

Trustees of managed investment trusts (MITs) and others treated as MITs may be able to choose, on an irrevocable basis, whether to apply the trust streaming provisions under proposed changes – see the Tax Laws Amendment (New Tax System for Managed Investment Trusts) Bill 2015. References to the 'net income of the trust' throughout this document are referring to the trust's net income as defined in Division 6 of Part III of the ITAA 1936 (Division 6). In the context of the taxation of trusts, this is the equivalent legislative term to 'taxable income'.

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A trustee can stream capital gains or franked distributions provided it has the power under the trust deed.

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Streaming under the trust deed

A trustee can stream capital gains or franked distributions provided it has the power under the trust deed.

Last updated 13 October 2020

For tax purposes, a trustee can stream capital gains or franked distributions provided it has the power, either express or implied, under the trust deed.

- An **express** power to stream may arise where the trust deed empowers the trustee to separately account for distinct classes of income or capital, and where beneficiaries' entitlements may then relate to those classes.
- A streaming power may be **implied** if the trust deed empowers the trustee to distribute income or capital at their absolute discretion and there is nothing further in the trust deed, or trust law in the relevant jurisdiction, that limits that power.

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Specific entitlement

Find out about beneficiaries and specific entitlements.

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A beneficiary who is specifically entitled to a capital gain or franked distribution received by a trust is generally assessed for tax on the gain or distribution. They also get the benefit of any franking credits attached to a franked distribution (subject to integrity rules).

A trustee of a resident trust can choose to be specifically entitled to a capital gain of their trust – making the choice in the trust tax return – in which case the trustee is taken to be specifically entitled to all of the capital gain. This choice can only be made if no part of the capital gain is paid or applied for the benefit of a beneficiary.

A trustee can't choose to be specifically entitled to a franked distribution in the same manner.

Becoming specifically entitled

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Capital gains and franked distributions are allocated to beneficiaries and the trustee.

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Becoming specifically entitled

Explains the conditions for a beneficiary to be specifically entitled to a trust capital gain or franked distribution.

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For a beneficiary to be specifically entitled to a capital gain or franked distribution received by a trust, the following two conditions must be met:

- Entitlement condition – the beneficiary must have received, or reasonably expect to receive, financial benefits that are 'referable to the capital gain' (reduced by any capital losses consistently with the application of capital losses for tax purposes) or franked distribution (reduced by directly relevant expenses).

- Recording condition – the beneficiary's entitlement to the amount must be 'recorded in its character' as an amount referable to the capital gain or franked distribution in the accounts or records of the trust.

Entitlement condition

- Received or reasonably expected to receive
- Financial benefits from gains or distributions
- Capital losses and expenses for franked distributions.

Received or reasonably expected to receive

A beneficiary has received an amount if, for instance, it has been credited or distributed to them (including under a reinvestment agreement), or paid or applied on their behalf, or for their benefit.

A beneficiary can reasonably be expected to receive an amount if, for example:

- they have a present entitlement to the dollar amount
- they have a present entitlement to the amount as determined using a precise specified methodology
- the amount has been set aside exclusively for them
- the trustee has resolved to pay to them the amount of any gain made on an asset under a proposed sale.

Where, under the terms of a trust deed, specified beneficiaries are already entitled to trust property and the trustee sells that property making a capital gain, it may not be possible to make other beneficiaries specifically entitled to the capital gain. In this sense, specific entitlement follows the entitlements under trust law as set out under the terms of a trust deed.

Example: no expectation of receiving an amount another beneficiary is already entitled to

Under the trust deed, the trustee of Wharf Trust must allocate any trust income to its named beneficiaries (the primary beneficiaries) by 30 June in each income year. If the trustee doesn't allocate all or part of the income by that date, other beneficiaries (the default beneficiaries) become entitled to the balance in equal proportions.

The trust deed defines trust income to include capital gains that are assessable for tax purposes. It also allows the trustee to stream capital gains to particular primary beneficiaries.

For the 2019–20 income year, the trust's income consists of bank interest and a capital gain. The trustee doesn't allocate any trust income to any of the primary beneficiaries by 30 June 2020.

Therefore, the default beneficiaries are presently entitled to all the trust income (including the capital gain) for the 2019–20 income year. This means the trustee can't make one of the primary beneficiaries specifically entitled to any part of the capital gain after 30 June 2020, as they can have no expectation of receiving what the default beneficiaries are entitled to receive.

Financial benefits from gains or distributions

A financial benefit is anything of economic value. In the case of a capital gain, the proceeds a trust receives from a capital gains tax (CGT) event constitute a financial benefit. In the case of a franked distribution, the distribution itself is a financial benefit.

Financial benefits that accrue to a beneficiary as a result of them being entitled to a share of a trust capital gain or franked distribution are referable to the capital gain or franked distribution.

This would be the case, for instance, if the terms of the trust require the trustee to distribute capital gains to one beneficiary to the exclusion of others. It would also be the case if the trustee exercises a power under the deed to distribute a franked distribution to one beneficiary to the exclusion of others.

A beneficiary's right to receive financial benefits referable to a trust capital gain or franked distribution may be expressed as a dollar amount. Alternatively, it may be expressed as a methodology for determining the specific dollar amount, even though the result of applying that methodology may not be known until later. For example, a trustee could resolve to distribute to a beneficiary:

- half of the trust capital gain realised on the sale of an asset (creating an entitlement to half of the amounts referable to the associated capital gain)

- the balance of the trust capital gain on the sale of an asset after applying $100 of the gain to another beneficiary (creating an entitlement to the amount referable to the gain less $100)
- 75% of all dividends (including franked distributions) received by the trust (creating an entitlement to three-quarters of the amounts referable to all franked distributions received by the trust)
- the amount of a franked distribution remaining after the application of directly relevant expenses (creating an entitlement to all of the relevant amounts referable to the franked distribution) – refer to Expenses for franked distributions.

Capital losses

The trustee's use of relevant losses can affect the extent to which the amount a beneficiary receives (or expects to receive) is referable to a capital gain. If the trustee applies losses against a capital gain, a beneficiary's entitlement can only be referable to the balance.

Application of losses consistent with application for tax purposes

An entitlement to the balance may be sufficient to create a specific entitlement to the entire capital gain (assuming all other requirements are met). This will only be the case if, in working out the amount of the trust's net capital gain for tax purposes, the corresponding capital losses for tax purposes are used to reduce the amount of that particular capital gain.

Example: treatment of capital losses - referable to capital gains

During the 2019–20 income year, Creek Trust sells Asset A for a $1,000 gain and Asset B for a $2,000 gain. Both gain amounts are the same for trust and tax purposes. Creek Trust also sells Asset C and makes a loss of $300 for tax purposes. However, for trust accounting purposes, the trust made a loss of $500 from the sale of Asset C.

The trustee resolves to distribute $500 to Sam, recorded as referable to the gain on Asset A after being reduced by the loss from the sale of Asset C. For tax purposes, the trustee applies the capital loss of $300 against the $1,000 gain from Asset A in working out the trust's net capital gain.

Of the $1,000 gain made on the sale of Asset A, Sam is only entitled to receive $500. However, applying the loss on Asset C against the gain on Asset A is consistent with the treatment of the corresponding capital loss for tax purposes. Therefore, Sam is specifically entitled to the entire $1,000 gain on Asset A for tax purposes.

If the trustee had instead applied the $300 capital loss for tax purposes against the capital gain made on Asset B. Sam would still only be entitled to receive $500 in respect of Asset A (as, for trust purposes, the $500 accounting loss from the sale of Asset C had been applied against that gain). However, the $1,000 financial benefit referable to the gain on Asset A was not reduced. This is because the loss was not applied against that gain for tax purposes. Accordingly, Sam would be specifically entitled to only half of the gain on Asset A for tax purposes (as he is entitled only to $500 of the $1,000 financial benefits referable to the gain).

Expenses for franked distributions

The trustee's treatment of expenses directly relevant to a franked distribution affects the extent to which the amount a beneficiary receives (or expects to receive) is referable to the franked distribution.

An entitlement to the balance of any distribution remaining after the application of directly relevant expenses is sufficient to create a specific entitlement to the entire franked distribution (assuming all other requirements are met). A beneficiary can only be made entitled to receive this balance if it is a positive amount – that is, if the franked distribution is not entirely offset by directly relevant expenses.

If expenses are incurred directly for an income producing investment, a rateable proportion of that expense can be a directly relevant expense attributable to each amount of income derived from that investment, including any franked distributions.

The extent to which an expense is considered directly (rather than indirectly) relevant depends on the facts and circumstances of the particular case.

General trust expenses, such as accounting fees and trustee fees, would not generally be directly relevant expenses incurred in deriving a franked distribution because there is no direct relationship between these expenses and the franked distribution.

Pooled distributions

To overcome the problem of some distributions being entirely offset by directly relevant expenses, all franked distributions received by a trust during an income year may be pooled and treated as a single franked distribution if the trustee has dealt with them all as a single class.

This allows a beneficiary to be specifically entitled to all, or a share of all, franked distributions, including those fully sheltered by expenses, as long as the total of all franked distributions exceed all directly relevant expenses. This allows the beneficiary to have the benefit of the franking credits that are attached to all franked distributions (subject to integrity rules).

Example: treatment of expenses - referable to franked distributions

Roma Trust holds a parcel of shares in Best Co and a parcel of shares in Less Co. During the income year ending 30 June 2020 the trustee receives:

- a franked distribution of $70,000 (with attached franking credits of $30,000) from Best Co
- a franked distribution of $35,000 (with attached franking credits of $15,000) from Less Co
- an unfranked distribution of $15,000 from Less Co.

Roma Trust incurred interest expenses of $80,000 during that year for money borrowed to acquire the shares in Less Co.

Under the terms of Roma Trust, Greg is entitled to all net dividend income (including franked distributions).

The interest expenses that are directly relevant to the franked distribution received from Less Co are based on the percentage the franked distribution is of the total Less Co distributions, that is:

$35,000 ÷ ($35,000 +$15,000) × 100% = 70%

Therefore, the interest expenses directly relevant to the franked distribution is $56,000 (70% of $80,000), which exceeds the amount of that franked distribution ($35,000). As a result, there is no balance available from this franked distribution to create a specific entitlement to Greg. Therefore, Greg would not be entitled to the franked distribution or benefit from the franking credit attached to that franked distribution.

However, as the trustee is distributing all the franked distributions to Greg in a single class (as Roma Trust's net dividend income), this means the franked distribution from Best Co will be pooled with the franked distribution from Less Co and treated as a single franked distribution. As that single franked distribution ($105,000) exceeds the directly relevant expenses ($56,000), Greg can be made specifically entitled to all of the franked distributions received (including that received from Less Co). Therefore, he might also have the benefit of the franking credits that are attached to those franked distributions (subject to integrity rules).

Recording condition

The beneficiary's entitlement to the amount must be 'recorded in its character' as referable to the capital gain or franked distribution in the trust's accounts or records.

- Recorded in its character
- Time limit to record the entitlement
- Entitlement to unspecified income is not a specific entitlement.

Recorded in its character

A beneficiary's entitlement to an amount will be recorded in its character as referable to a capital gain or franked distribution in a trust's records or accounts if, for example, the:

- beneficiary is entitled, under the trust deed, to all of the capital gains of a trust
- trustee, in a valid exercise of a power under the deed, resolves to distribute all franked distributions received by the trust to the beneficiary

- trustee, in a valid exercise of a power under the deed, resolves to distribute all the profits from a proposed sale of a particular asset to the beneficiary.

A beneficiary's entitlement to an amount may also be recorded in its character as referable to a capital gain or franked distribution by a notation in the trust's accounts, provided it is:

- clear
- consistent with the terms of the trust deed, and
- not inconsistent with any other records made by the trustee.

Example: records of the trust

The Cabernet Trust deed defines income to include capital gains.

For the 2019–20 income year, the income of Cabernet Trust was $150,000, consisting of $100,000 rent and a $50,000 capital gain from the sale of one of the trust's rental properties. For tax purposes, the CGT discount does not apply to the capital gain.

On 30 June 2020, the trustee made a resolution allocating trust income equally between Bill and Ben.

On 31 August 2020, the trustee drew up the trust's accounts, which clearly showed that of the $75,000 appointed to Bill, $50,000 was referable to the capital gain. This was done by separately adding $50,000 and $25,000 to Bill's beneficiary account and noting the character of these amounts as referable to the capital gain and rent respectively.

When the trustee resolution and the accounts are viewed together, it can be concluded that Bill was entitled to an amount referable to the whole of the capital gain as this amount has been recorded in its character as referable to the capital gain.

Time limit to record the entitlement

For a capital gain, a beneficiary's entitlement must be recorded (in that character) in the trust's accounts or records no later than 2 months after the end of the income year in which the capital gain is made.

For a franked distribution, a beneficiary's entitlement must be recorded (in that character) in the trust's accounts or records by the end of the income year in which the distribution is made.

Entitlement to unspecified income is not a specific entitlement

A beneficiary who is presently entitled to some or all of the total trust income (that is, 'blended' income from several sources) may expect to receive some or all of the benefits referable to any trust capital gain or franked distribution included in that income – particularly if the trust income only includes capital gains and franked distributions.

However, this alone won't create a relevant specific entitlement, because it doesn't, of itself, meet the second condition for specific entitlement. Expressing the entitlement as being to 'some or all' of the total trust income is not a record of the entitlement in its character of an amount referable to the capital gain or franked distribution.

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Calculating specific entitlement

How to work out the amount of a beneficiary's specific entitlement to a capital gain or franked distribution.

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To work out the amount of a beneficiary's specific entitlement to a capital gain or franked distribution use the two following steps:

- Work out the beneficiary's entitlement as a percentage of the total financial benefits referable to the capital gain (reduced by capital losses consistently with the application of capital losses for tax purposes) or franked distribution (net of directly relevant expenses).
- Apply that percentage to the gross capital gain or franked distribution.

The result is the amount the beneficiary is specifically entitled to.

The total financial benefits referable to a capital gain will generally equal the capital gain as calculated for trust purposes less any losses the trustee has applied against the gain, to the extent that the corresponding capital losses were applied against that gain for tax purposes.

The total financial benefits referable to a franked distribution will generally equal the franked distribution less any directly relevant expenses. If all franked distributions have been dealt with within a single class, the total financial benefits referable to those (pooled) distributions will equal the total distributions less any directly relevant expenses.

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When specific entitlement can't be established

Specific entitlement can't be established for some amounts, including notional, zero amounts and franking credits.

Last updated 23 July 2025

In some situations, specific entitlement can't be established for the full amount of discounted capital gains without making beneficiaries entitled to trust capital.

Zero amounts

A beneficiary can't be specifically entitled to an amount of a capital gain or franked distribution if there is no amount referable to the capital gain or distribution remaining in the trust (for example, because the gain or distribution has been reduced to zero after subtracting capital losses or expenses).

Franked distributions may be **pooled**, allowing all directly relevant expenses to be offset against the total of all franked distributions received by a trust.

Notional amounts

Generally, a beneficiary can't be specifically entitled to a purely notional capital gain as it isn't possible to receive financial benefits that are referable to a notional gain. An example of a notional capital gain is any part of a capital gain for tax purposes that exceeds the actual capital gain made for trust purposes as a result of the market value substitution rules applying.

Franking credits

A beneficiary can't be made specifically entitled to franking credits, which are a notional amount and can't be streamed separately to the franked distribution. To get the benefit of franking credits, the beneficiary must be entitled to a share of a franked distribution.

Discounted capital gains

Some trust deeds define trust income as equal to the net income of the trust (commonly known as an income equalisation clause). Other trust deeds empower the trustee to determine that trust income is equal to the net income of the trust.

In this case, if a trust makes a capital gain that qualifies for the 50% CGT discount, only half the gain will form part of trust income.

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If no beneficiary is specifically entitled

Capital gains and franked distributions are allocated to beneficiaries and the trustee.

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Capital gains and franked distributions to which no beneficiary is specifically entitled are allocated to beneficiaries and the trustee based on their proportional share of the remainder of trust income (excluding any franked distributions or capital gains any entity is specifically entitled to). This proportional share is known as their 'adjusted Division 6 percentage'.

The trustee will only need to allocate such capital gains and franked distributions if the trust's net income is greater than zero.

Calculating the adjusted Division 6 percentage

A beneficiary's adjusted Division 6 percentage is calculated as:

> The beneficiary's present entitlement to trust income, excluding any capital gains and franked distributions they are specifically entitled to
>
> *divided by*
>
> the trust income, excluding any capital gains or franked distributions to which any entity is specifically entitled.

If the sum of the adjusted Division 6 percentages of all beneficiaries is less than 100%, the difference is the trustee's adjusted Division 6 percentage.

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Capital gains

If not prevented by the trust deed, a trust's capital gain can be streamed to beneficiaries for tax purposes.

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If not prevented by the trust deed, a trust's capital gain can be streamed to beneficiaries for tax purposes (even if they don't have a present entitlement to trust income) by making them specifically entitled to the gain. A trustee has until 2 months after the end of the income year in order to make a beneficiary specifically entitled to a capital gain (ordinarily, this is 31 August).

The trustee of a resident trust can choose to be assessed on a capital gain if no beneficiary has received or benefited from any amount relating to the gain during, or within 2 months of the end of, the income year. This allows a trustee to choose to pay tax on behalf of a beneficiary who is unable to immediately benefit from the gain.

Where no beneficiary has a specific entitlement to all or part of a capital gain, and the trustee has not chosen to be assessed on it, the capital gain is allocated to beneficiaries according to their present entitlements to trust income under Division 6 of Part III of the ITAA 1936. Any part of a capital gain that isn't allocated to a beneficiary in this way is allocated to the trustee.

A beneficiary who has a capital gain streamed to them is treated as having an extra capital gain that they will then take into account in working out their own net capital gain for the income year.

Capital gains of a trust are allocated to beneficiaries and the trustee in accordance with the rules in Subdivision 115-C of the ITAA 1997, which apply from the 2010-11 year.

Calculating the extra capital gain

Find out about the four steps in calculating a beneficiary's extra capital gain and the capital gain a trustee is assessed on.

Rateable reduction

Find out about when the rateable reduction applies.

Where the trustee is assessed

Information about how a trustee may be assessed and liable to pay tax in respect of a beneficiary.

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Calculating the extra capital gain

Find out about the four steps in calculating a beneficiary's extra capital gain and the capital gain a trustee is assessed on.

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There are 4 steps in calculating a beneficiary's extra capital gain and the capital gain a trustee is assessed on. Each capital gain of the trust is calculated separately.

Step 1: determine the share

A beneficiary or trustee's share of a trust capital gain is a dollar amount that comprises both:

- any part of the capital gain they are specifically entitled to
- a proportionate share of any part of the capital gain remaining after all specific entitlements to it have been determined.

The beneficiary or the trustee's proportionate share of any remaining capital gain is their adjusted Division 6 percentage of that gain.

A beneficiary's adjusted Division 6 percentage is the trust income to which they are entitled, expressed as a percentage (excluding any franked distributions or capital gains to which any entity is specifically entitled).

The trustee's adjusted Division 6 percentage is their share of the trust income (excluding any franked distributions or capital gains to which any entity is specifically entitled) which no beneficiary is presently entitled to, expressed as a percentage.

Step 2: the share as a percentage of the capital gain

To work out the percentage of the capital gain this share represents, divide the amount worked out at step 1 by the total amount of the capital gain and multiply by 100.

Step 3: determine the attributable gain

Multiply the trust's net income that relates to the capital gain by the percentage worked out at step 2. The result is the beneficiary or trustee's attributable gain.

Generally, the net income of the trust that relates to the capital gain is the taxable amount of the capital gain remaining after the trustee has applied any capital losses, including carried forward losses, and the CGT discount or small business concessions (if relevant).

This net income amount will equal the trust's net capital gain if the trust only has one capital gain.

The trustee can choose the order in which the capital losses and net capital losses are applied against individual capital gains of the trust. This may reduce the taxable amount for a particular capital gain to zero.

Step 4: gross up the attributable gain

Beneficiary

The beneficiary's attributable gain must be grossed up to adjust for any discounts the trustee has applied to that gain, so if:

- no discounts were applied, there is no gross up
- either (but not both) the general CGT discount or the small business 50% reduction was applied, the amount is doubled
- both discounts were applied, the amount is quadrupled.

The attributable gain (grossed up as appropriate) gives the beneficiary an extra capital gain. Beneficiaries treat extra capital gains the same way they would treat any capital gain. That is, they may reduce it by any current or prior year capital losses they have and apply any relevant discounts to work out their own net capital gain.

Example: tax treatment of trust capital gains

In the 2019–20 income year, Trailerpark Trust:

- received rental income of $50,000
- made a discountable capital gain of $150,000
- had a carried forward capital loss of $10,000.

The trust deed states that capital gains form part of trust income. The trust's capital gain as calculated under the deed is therefore $140,000 (that is, after the capital loss was subtracted).

The trust's income is $190,000, made up of the $50,000 rental income and the $140,000 capital gain.

The trust's net capital gain for tax purposes is $70,000, which is the $150,000 capital gain, less the $10,000 capital loss, reduced by the 50% CGT discount (($150,000 – $10,000) × 50% = $70,000). The net income of the trust is therefore $120,000, made up of $50,000 rental income and the net capital gain of $70,000.

The trust has 2 resident beneficiaries, Ricky and Julian, neither under a legal disability. In accordance with a power under the deed, the trustee resolves to make Julian specifically entitled to $110,000 of the capital gain.

$80,000 of trust income remains unallocated ($190,000 – $110,000). The trust deed states that any remaining income is to be split equally between Ricky and Julian as beneficiaries. This results in each being presently entitled to an additional $40,000 ($80,000 ÷ 2).

Working out each beneficiary's extra capital gain

Working out each beneficiary's extra capital gain involves four steps.

Step 1: Determine the share

Each beneficiary's share of the capital gain is made up of both:

- any amount they are specifically entitled to

- their adjusted Division 6 percentage share of the part of the capital gain to which no beneficiary is specifically entitled to.

Ricky is not specifically entitled to any part of the capital gain.

Julian's specific entitlement to the capital gain is calculated :

Capital gain × (share of net financial benefit ÷ net financial benefit)

= 150,000 × (110,000 ÷ 140,000)

= $117,857

Therefore, the amount of the capital gain to which no beneficiary is specifically entitled is $32,143 (that is, $150,000 − $0 (Ricky’s specific entitlement) − $117,857 (Julian’s specific entitlement)).

To work out each beneficiary's share of this remaining $32,143 capital gain, they first need to work out their adjusted Division 6 percentage of the trust's income. This is done by:

- working out their present entitlement to trust income, excluding any capital gains and franked distributions they are specifically entitled to
- expressing the result as a percentage of the amount of trust income, excluding any capital gains or franked distributions any entity is specifically entitled to.

Ricky and Julian’s specific entitlements to the capital gain of the trust have been calculated above.

Therefore, trust income, excluding the capital gains to which any entity is specifically entitled, is $72,143 ($190,000 income less Julian’s specific entitlement to the capital gain of $117,857).

Ricky's adjusted Division 6 percentage is calculated as:

Ricky's present entitlement to trust income less his specific entitlement, which is $40,000 ($40,000 − nil specific entitlement)

divided by $72,143 (being the trust income excluding amounts of capital gains and franked distributions any entity is specifically entitled to)

= 55.45%

Julian's adjusted Division 6 percentage is calculated as:

Julian's present entitlement to trust income, which is $150,000 ($110,000 + $40,000) less his specific entitlement to the capital gain ($117,857) = $32,143

divided by $72,143 (being the trust income excluding capital gains and franked distributions any entity is specifically entitled to)

= 44.55%

Each beneficiary's share of the capital gain is made up of:

- any amount they are specifically entitled to, and
- their adjusted Division 6 percentage shares of the amount of the capital gain to which no beneficiary is specifically entitled ($32,143).

  Therefore, each beneficiary's respective share of the capital gain is:

- Ricky: $0 + (55.45% × $32,143) = $17,823
- Julian: $117,857 + (44.55% × $32,143) = $132,177

Step 2: Work out the share as a percentage of the capital gain

Each beneficiary's percentage share of the trust's capital gain is calculated by dividing their share by the total capital gain and multiplying by 100:

- Ricky: ($17,823 ÷ $150,000) × 100% = 11.88%
- Julian: ($132,177 ÷ $150,000) × 100% = 88.12%

Step 3: Determine the attributable gain

Each beneficiary’s attributable gain is their share of the capital gain (expressed as a percentage) multiplied by the net income of the trust relating to the capital gain.

The net income of the trust relating to the capital gain is the trust's net capital gain of $70,000.

Multiply the $70,000 by each beneficiary's percentage share of the capital gain (worked out at step 2) to work out their attributable gain:

- Ricky: $70,000 × 11.88% = $8,316

- Julian: $70,000 × 88.12% = $61,684

Step 4: Gross up the attributable gain

As the trustee applied the 50% CGT discount to the capital gain, each beneficiary must double their attributable gain (worked out at step 3) to work out their extra capital gain:

- Ricky: $8,316 × 2 = $16,632
- Julian: $61,684 × 2 = $123,368

Ricky and Julian add their extra capital gain to any of their own capital gains before deducting any current or prior year capital losses they have and applying any relevant discounts to determine their own net capital gain. As they are individuals, they are entitled to the 50% CGT discount.

If they have no other capital gains or capital losses:

- Ricky would have a net capital gain of $8,316 ($16,632 reduced by the 50% CGT discount)
- Julian would have a net capital gain of $61,684 ($123,368 reduced by the 50% CGT discount).

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Rateable reduction

Find out about when the rateable reduction applies.

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When the reduction applies

In some circumstances, Subdivision 115-C of the ITAA 1997 reduces the capital gains of the trust assessed to the beneficiaries and trustee to ensure they are not assessed on more than the total net income of the trust.

The reduction applies if the sum of the franked distributions (less directly relevant deductions) and net capital gain of the trust exceeds the net income of the trust (excluding franking credits). For example, this may occur if a trust's only income is from capital gains and franked distributions and it has general management expenses.

Example: tax treatment of trust capital gains where rateable reduction applies

In the 2019–20 income year, Trailerpark Trust:

- received rental income of $50,000
- incurred general deductions of $60,000
- made a discountable capital gain of $150,000
- had a carried forward capital loss of $10,000.

The trust deed states that capital gains form part of trust income. The trust's capital gain as calculated under the deed is therefore $140,000 (that is, after the capital loss was subtracted).

The trust's income is $130,000, made up of the $50,000 rental income and the $140,000 capital gain less the general deductions of $60,000.

The trust's net capital gain for tax purposes is $70,000, which is the $150,000 capital gain, less the $10,000 capital loss, reduced by the 50% CGT discount
(($150,000 − $10,000) × 50% = $70,000).

The net income of the trust is therefore $60,000, made up of $50,000 rental income and the net capital gain of $70,000 less the general deductions of $60,000.

The trust has 2 resident beneficiaries, Ricky and Julian, neither under a legal disability. In accordance with a power under the deed, the trustee resolves to make Julian specifically entitled to $110,000 of the capital gain.

$20,000 of trust income remains unallocated
($130,000 − $110,000). The trust deed states that any remaining income is to be split equally between Ricky and Julian as

beneficiaries. This results in each being presently entitled to an additional $10,000 ($20,000 ÷ 2).

Working out each beneficiary's extra capital gain

Working out each beneficiary's extra capital gain involves 4 steps.

Step 1: Determine the share

Each beneficiary's share of the capital gain is made up of both:

- any amount they are specifically entitled to
- their adjusted Division 6 percentage share of the part of the capital gain to which no beneficiary is specifically entitled to.

Ricky is not specifically entitled to any part of the capital gain.

Julian's specific entitlement to the capital gain is calculated as:

- Capital gain × (share of net financial benefit ÷ net financial benefit)
  - = 150,000 × (110,000 ÷ 140,000)
  - = $117,857

Therefore, the amount of the capital gain to which no beneficiary is specifically entitled is $32,143 (that is, $150,000 − $0 (Ricky’s specific entitlement) − $117,857 (Julian’s specific entitlement)).

To work out each beneficiary's share of this remaining $32,143 capital gain, they first need to work out their adjusted Division 6 percentage of the trust's income. This is done by:

- working out their present entitlement to trust income, excluding any capital gains and franked distributions they are specifically entitled to
- expressing the result as a percentage of the amount of trust income, excluding any capital gains or franked distributions any entity is specifically entitled to.

Ricky and Julian’s specific entitlements to the capital gain of the trust have now been calculated.

Therefore, trust income, excluding the capital gains to which any entity is specifically entitled, is $12,143 ($130,000 income less Julian’s specific entitlement to the capital gain of $117,857).

Ricky's adjusted Division 6 percentage is calculated as:

> Ricky's present entitlement to trust income less his specific entitlement, which is $10,000 ($10,000 − nil specific entitlement)
>
> divided by $12,143 (being the trust income excluding amounts of capital gains and franked distributions any entity is specifically entitled to)
>
> = 82.35%.

Julian's adjusted Division 6 percentage is calculated as:

> Julian's present entitlement to trust income, which is $120,000 ($110,000 + $10,000) less his specific entitlement to the capital gain ($117,857) = $2,143
>
> divided by $12,143 (being the trust income excluding capital gains and franked distributions any entity is specifically entitled to)
>
> = 17.65%.

Each beneficiary's share of the capital gain is made up of:

- any amount they are specifically entitled to, and
- their adjusted Division 6 percentage shares of the amount of the capital gain to which no beneficiary is specifically entitled ($32,143).

Therefore, each beneficiary's respective share of the capital gain is:

- Ricky: $0 + (82.35% × $32,143) = $26,469
- Julian: $117,857 + (17.65% × $32,143) = $123,531

Step 2: Work out the share as a percentage of the capital gain

Each beneficiary's percentage share of the trust's capital gain is calculated by dividing their share by the total capital gain and multiplying by 100:

- Ricky: ($26,469 ÷ $150,000) × 100% = 17.65%
- Julian: ($123,531 ÷ $150,000) × 100% = 82.35%

Step 3: Determine the attributable gain

Each beneficiary's attributable gain is their share of the capital gain (expressed as a percentage) multiplied by the net income of the trust relating to the capital gain.

In this example however, the net income of the trust of $60,000 falls short of the trust's net capital gain of $70,000.

As a result, the trust's net capital gain will be rateably reduced before the attributable gain can be calculated. This is done by multiplying the net capital gain by the net income of the trust estate dividend by the sum of the net capital of the trust estate and franked distributions (if any):

$70,000 × ($60,000 ÷ $70,000) = $60,000

Therefore, the net income of the trust relating to the capital gain is $60,000.

Multiply the $60,000 by each beneficiary's percentage share of the capital gain (worked out at step 2) to work out their attributable gain:

- Ricky: $60,000 × 17.65% = $10,590
- Julian: $60,000 × 82.35% = $49,410

Step 4: Gross up the attributable gain

As the trustee applied the 50% CGT discount to the capital gain, each beneficiary must double their attributable gain (worked out at step 3) to work out their extra capital gain:

- Ricky: $10,590 × 2 = $21,180
- Julian: $49,410 × 2 = $98,820

Ricky and Julian add their extra capital gain to any of their own capital gains before deducting any current or prior year capital losses they have and applying any relevant discounts to determine their own net capital gain. As they are individuals, they are entitled to the 50% CGT discount.

If they have no other capital gains or capital losses:

- Ricky would have a net capital gain of $10,590 ($21,180 reduced by the 50% CGT discount)

- Julian would have a net capital gain of $49,410 ($98,820 reduced by the 50% CGT discount).

How to report this example in the Trust tax return statement of distribution (SOD)

Show at label **F Capital gains** each beneficiary's share of the trust's (net) capital gains. Show whole dollars only.

Rateable reduction should be apportioned evenly against the beneficiary CGT amounts. In this example, the NPP amount reported at label B is nil and not a loss of $10,000. This is because the $10,000 is taken into account in the rateable reduction when reporting the capital gain to be $60,000 at label F.

Note 1: The methodology described is specific to this example and it does not include franked dividends which can also be subject to a rateable reduction.

Note 2: The rateable reduction methodology applies on a 'gain by gain' basis to the amount of each capital gain of the trust that remains after step 4 of the method statement for calculating the net capital gain of the trust. This means if there is more than one capital gain you will have to do a separate calculation for each capital gain. Do not aggregate all capital gains and then rateable reduce.

Step 1:

- Work out the rateable reduction percentage. Calculated by dividing the net income of the trust by the net capital gain ($60,000 ÷ $70,000) = 85%.

Step 2:

- Trust Label F amounts are then multiplied by the rateable reduction percentage and then multiplied by each beneficiary's adjusted Division 6 percentage, (see **step 2** in example).

Relevant SOD labels for this example including CGT calculation elements for label F Capital gains are shown in the following tables.

Table A: Beneficiary Ricky

Label	Calculation element	Amount	How to calculate the rateable reduction amount
A	Primary Production	$0	N/A
B	Non-Primary Production	$0	N/A
F	Capital gains	$10,590	($70,000 × 85%) x 17.65%
F1	Gross capital gain	$22,680	($150,000 × 85%) x 17.65%
F2	Capital losses applied	$1,500	($10,000 × 85%) x 17.65%
F3	CGT discount applied	$10,590	($70,000 × 85%) x 17.65%
F4	CGT small business concessions applied	$0	N/A

F F1 - F2 - F3 - F4 = F Capital gains $10,590

Table B: Beneficiary Julian

Label	Calculation element	Amount	How to calculate the rateable reduction amount
A	Primary Production	$0	N/A
B	Non-Primary Production	$0	N/A

F	Capital gains	$49,410	($70,000 × 85%) x 82.35%
F1	Gross capital gain	$105,819	($150,000 × 85%) x 82.35%
F2	Capital losses applied	$7,000	($10,000 × 85%) x 82.35%
F3	CGT discount applied	$49,410	($70,000 × 85%) x 82.35%
F4	CGT small business concessions applied	$0	N/A

F F1 - F2 - F3 - F4 = F Capital gains $49,410

QC 24534

Where the trustee is assessed

Information about how a trustee may be assessed and liable to pay tax in respect of a beneficiary.

Last updated 27 June 2024

On behalf of certain beneficiaries

A trustee may be assessed and liable to pay tax under section 98 of the ITAA 1936 in respect of a beneficiary. In this circumstance, Subdivision 115-C of the ITAA 1997 requires the trustee to increase the amount to be assessed to reflect the beneficiary's attributable gains.

This applies if a non-resident beneficiary or a beneficiary under a legal disability is specifically entitled to all or part of a capital gain or such a beneficiary has an adjusted Division 6 percentage of a capital gain.

If the trustee is assessed in respect of a non-resident corporate beneficiary or a non-resident trustee beneficiary and the assessment relates to a discount capital gain or a share of a discount capital gain, the trustee must double the corresponding amount assessed to them under section 98 of the ITAA 1936. In effect, this prevents beneficiaries of the trust that are non-resident companies or non-resident trusts from getting the benefit of the CGT discount.

On income to which no beneficiary is presently entitled

A trustee may also be assessed under section 99 or section 99A of the ITAA 1936 if there is trust income to which no beneficiary is presently entitled. In this circumstance, Subdivision 115-C of the ITAA 1997 requires the trustee to increase their assessment to reflect their share of the trust's capital gains.

If the trustee is assessed under section 99A of the ITAA 1936 and the assessment relates to a discount capital gain or a share of a discount capital gain, the trustee must double the corresponding amount assessed to them under section 99A of the ITAA 1936. The same applies if the assessment relates to a capital gain that was reduced by the small business 50% reduction. If the capital gain was reduced by both discounts, the trustee must quadruple the amount assessed under section 99A. These requirements to double or quadruple the amount don't apply where the trustee is assessed under section 99 of the ITAA 1936.

Choosing to be assessed on the capital gain

The trustee of a resident trust can choose to be assessed on a capital gain of the trust provided the following conditions are met:

- making the choice is consistent with the terms of the trust deed
- the trust is a resident trust estate for tax purposes in the income year in which the capital gain is made
- the choice is made for the whole capital gain
- no beneficiary has received the benefit of the gain during the income year in which it was made or within 2 months of the end of

that income year.

The trustee must make the choice within 2 months of the end of the income year or a later date allowed by the Commissioner.

If a trustee makes this choice, they are assessed on the net income of the trust relating to the capital gain under section 99 or 99A of the ITAA 1936 as appropriate.

A trustee might choose to pay tax on a capital gain if, for example, tax on the gain would otherwise be paid by:

- an income beneficiary who can't benefit from the gain because the gain is capital under the terms of the trust deed
- a capital beneficiary who is unable to benefit from the gain during the income year in which it is made, or within 2 months of the end of that year.

Example: choosing to be assessed on a trust capital gain

The Ngo Trust is a resident trust for tax purposes. It is a unit trust with different income and capital unit holders.

Under the deed, the capital unit holders have an entitlement to the capital gains made by the trust, but can't demand payment of those gains until certain events occur, which will be much later than when the gain is made.

The Ngo Trust makes a $200 capital gain. After applying the CGT discount, a net capital gain of $100 is included in the trust's net income.

The capital unit holders are specifically entitled to the capital gain and therefore, for tax purposes, are taken to have made the capital gain themselves. As they can't demand payment of the $200 capital gain by the end of 2 months after the end of the income year, they have no cash flow from which to pay the corresponding tax liability. The trustee chooses to be assessed on the capital gain.

The trustee will be assessed on either:

- $100 – if assessed under section 99 of the ITAA 1936

- $200 (that is, grossed up to reverse the CGT discount) – if assessed under section 99A of the ITAA 1936.

  As a result of the trustee's choice, the capital unit holders are taken not to have made a capital gain.

QC 24534

Franked distributions

Find out how franked distributions of a trust are taxed to the beneficiaries and the trustee.

Last updated 13 October 2020

Franked distributions of a trust are taxed to the beneficiaries and the trustee in accordance with the rules in Subdivision 207-B of the ITAA 1997, which apply from the 2010–11 year. The rules specify how to:

- calculate the portion/share of a franked distribution that the trustee or a particular beneficiary will be assessed on
- allocate the franking credit attached to the distribution.

These rules only apply if the net income of the trust is greater than zero.

Calculating shares of the franked distribution and attached franking credit

Find out about calculating shares of franked distribution and attached franking credits.

Rateable reduction to net income

Find out about rateable reduction to net income under some circumstances.

If the trustee is assessed

Find out about if a trustee has been assessed and liable to pay tax.

QC 24534

Calculating shares of the franked distribution and attached franking credit

Find out about calculating shares of franked distribution and attached franking credits.

Last updated 27 June 2024

For each franked distribution, a beneficiary can be assessed on an amount that includes all of the following:

- the amount of the distribution they are specifically entitled to
- their share of that part (if any) of a distribution to which no beneficiary is specifically entitled
- their share of the franking credit attached to the distribution (the franking credit gross-up).

To calculate the share of a franked distribution of a trust that a beneficiary or trustee is assessed on, and their share of any franking credit attached to the distribution, apply the following 3 steps.

Step 1: determine the share

A beneficiary or trustee's share of a franked distribution received by a trust is a dollar amount that comprises:

- for a beneficiary, any part of a franked distribution they are specifically entitled to
- for both beneficiaries and trustees, a proportionate share of any part of a franked distribution to which no beneficiary is specifically entitled.

A beneficiary or trustee's share of a franked distribution is based on the gross amount of the distribution (that is, the amount before deducting relevant expenses).

The beneficiary or trustee's proportionate share of any remaining franked distribution is worked out using their adjusted Division 6 percentage:

- A beneficiary's adjusted Division 6 percentage is the share of trust income they are entitled to, expressed as a percentage (excluding any franked distributions or capital gains any entity is specifically entitled to).
- The trustee's adjusted Division 6 percentage is the share of trust income to which no beneficiary is presently entitled, expressed as a percentage (excluding any franked distributions or capital gains any entity is specifically entitled to).

Step 2: the share as a percentage of the distribution

To work out the percentage of the distribution this share represents, divide the amount worked out at step 1 by the gross amount of the distribution and multiply by 100.

Step 3: determine the attributable franked distribution and share of franking credit

Attributable distribution

Multiply the trust's net franked distribution (that is, what's left of the franked distribution after deducting directly relevant expenses) by the percentage worked out at step 2. The result is an amount in dollars, which is the beneficiary or trustee's attributable franked distribution.

Share of franking credits

Multiply the amount of the franking credit attached to the distribution by the percentage worked out at step 2. The result is an amount in dollars.

The result of step 3 establishes both:

- the amount of the franking credit gross up that the beneficiary or the trustee includes in their assessable income, and
- the beneficiary or trustee's potential entitlement to the franking credit tax offset.

Using the franking credit offset is subject to meeting relevant **integrity rules** (such as the 45-day holding rule).

Example: tax treatment of trust franked distributions

In the 2019–20 income year, Lang Trust received $100,000 of rental income and a $70,000 fully franked distribution (with $30,000 of franking credits attached). The trust incurred $20,000 of expenses that related to the rental income.

Therefore, the trust's income is $150,000 ($100,000 minus $20,000 plus $70,000) and its net income is $180,000 ($150,000 income plus $30,000 franking credits).

The trust has 2 resident beneficiaries, Lucy and Hannah. Lucy is presently entitled to 50% of trust income (that is, $75,000). In accordance with a power under the deed, the trustee makes Hannah presently entitled to $50,000, which is recorded in the accounts as being referable to the franked distribution. The amount that Hannah is specifically entitled to is also $50,000, calculated as:

Franked distribution × (Share of net financial benefit ÷ Net financial benefit)

$70,000 ÷ ($50,000 ÷ $70,000) = $50,000

The remaining $20,000 of the franked distribution is an amount to which no beneficiary is specifically entitled.

In addition, the trustee resolves to make Hannah entitled to so much of the remainder of the trust's income as to make her total present entitlement equal to 50% of trust income. This has the effect of making Hannah entitled to an additional $25,000.

Neither Hannah nor Lucy is under a legal disability.

Working out Hannah and Lucy's shares of the franked distribution and attached franking credit

Step 1: Determine the share

Each beneficiary's share of that franked distribution is made up of both:

- any amount they are specifically entitled to
- their adjusted Division 6 percentage share of the part of the franked distribution to which no beneficiary is specifically entitled (that is, $70,000 less Hannah's specific entitlement to $50,000 = $20,000).

To work out each beneficiary's share of this remaining $20,000 of the franked distribution, they first need to work out their adjusted Division 6 percentage of trust income. This is done by:

- working out their present entitlement to trust income excluding any capital gains and franked distributions they are specifically entitled to
- expressing the result as a percentage of the amount of trust income excluding any franked distributions and capital gains any entity is specifically entitled to.

The trust's income excluding the amounts of franked distributions and capital gains to which any entity is specifically entitled is $100,000 ($150,000 income less $50,000 of Hannah's specific entitlement to the franked distribution).

Hannah's adjusted Division 6 percentage is calculated as:

> Hannah's present entitlement to trust income ($75,000), less her specific entitlement to the franked distribution ($50,000) = $25,000
>
> divided by $100,000 (being the trust income excluding amounts of capital gains and franked distributions any entity is specifically entitled to)
>
> = 25%.

Lucy's adjusted Division 6 percentage is calculated as:

> Lucy's present entitlement to trust income ($75,000)
>
> divided by $100,000 (being trust income excluding amounts of capital gains and franked distributions any entity is specifically entitled to)
>
> = 75%.

Each beneficiary's share of the franked distribution is made up of both:

- any amount they are specifically entitled to
- their adjusted Division 6 percentage share of the $20,000 franked distribution that no beneficiary is presently entitled to.

Therefore, the beneficiary's shares of the franked distribution are:

- Hannah: $50,000 + (25% × $20,000) = $55,000
- Lucy: $0 + (75% × $20,000) = $15,000.

Step 2: Work out the share as a percentage of the distribution

Divide the amount worked out at step 1 by the gross amount of the distribution and multiply by 100.

- Hannah: ($55,000 ÷ $70,000) × 100% = 78.57%
- Lucy: ($15,000 ÷ $70,000) × 100% = 21.43%

Step 3: Determine the attributable franked distribution and share of franking credit

The attributable distribution

Separately for Hannah and Lucy, multiply the amount of the trust's franked distribution net of directly relevant expenses by the percentage worked out at step 2.

Given that there are no expenses directly related to the franked distribution, the net franked distribution amount is the same as the gross franked distribution amount. The attributable franked distribution amount is:

- Hannah's share: $70,000 × 78.57% = $55,000

- Lucy's share: $70,000 × 21.43% = $15,000.

The share of franking credits

Separately for Hannah and Lucy, multiply the amount of the franking credit attached to the distribution ($30,000) by the percentage worked out at step 2:

- Hannah: $30,000 × 78.57% = $23,571
- Lucy: $30,000 × 21.43% = $6,429.

Hannah and Lucy's assessable income under Subdivision 207-B

Under the rules in Subdivision 207-B of the ITAA 1997, Hannah and Lucy's assessable income from the trust's franked distribution is:

- Hannah: $55,000 attributable franked distribution plus $23,571 share of franking credit = $78,571
- Lucy: $15,000 attributable franked distribution plus $6,429 share of franking credit = $21,429.

Assuming they meet the relevant integrity rules, Hannah and Lucy are both entitled to a tax offset equal to their share of the franking credit.

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Rateable reduction to net income

Find out about rateable reduction to net income under some circumstances.

Last updated 13 October 2020

In some circumstances, Subdivision 207-B of the ITAA 1997 allows for a reduction in the amounts of a distribution otherwise assessed to the beneficiaries and the trustee. This ensures they are not assessed on more than the total net income of the trust.

The adjustment applies if the sum of the franked distributions (net of directly relevant deductions) and net capital gains exceeds the net income of the trust (excluding franking credits). For example, this situation may happen if a trust's only assessable income is from capital gains and franked distributions and it has general management expenses that it deducts in working out its net income.

QC 24534

If the trustee is assessed

Find out about if a trustee has been assessed and liable to pay tax.

Last updated 13 October 2020

On behalf of certain beneficiaries

A trustee may be assessed and liable to pay tax under section 98 of the ITAA 1936 in respect of a beneficiary. The trustee is assessed on the beneficiary's share of a franked distribution and attached franking credit. The trustee, subject to eligibility, may be entitled to an offset equal to their share (on behalf of a beneficiary) of the franking credit.

On income no beneficiary is presently entitled to

A trustee may also be assessed under section 99 or 99A of the ITAA 1936 if there is trust income to which no beneficiary is presently entitled. The trustee must increase the amount they are assessed on to reflect their share of any franked distribution and attached franking credit. Again, subject to eligibility, the trustee may be entitled to an offset equal to their share of the franking credit.

QC 24534

Avoiding double taxation – Division 6E

Find out when and how Division 6E applies and about avoiding double taxation.

Last updated 27 June 2024

Trust capital gains and franked distributions are assessed under Subdivision 115-C and Subdivision 207-B of the ITAA 1997 respectively. Division 6E of Part III of the ITAA 1936 ensures that they are not assessed again under the core trust rules in Division 6.

When Division 6E applies

Division 6E applies if:

- the net income of the trust is greater than zero
- in working out the net income, the trustee took into account any of the following:
  - the amount of a capital gain that remained after applying capital losses or any CGT concessions
  - the amount of a franked distribution that remained after reducing it by directly relevant deductions
  - a franking credit.

How Division 6E applies

Division 6E adjusts the amounts otherwise assessed to a beneficiary (or the trustee) under Division 6.

Broadly, Division 6 assesses:

- a beneficiary who is presently entitled to a share of trust income on that same percentage share of the trust's net income
- the trustee on any net income not assessed to a beneficiary.

Essentially, Division 6E requires the trustee and beneficiaries to apply Division 6 on the assumption that the trust had no capital gains or franked distributions.

Assumptions

To work out the amount assessed to a beneficiary or a trustee under Division 6, assume that the:

- trust's income equals the **Division 6E income** of the trust
- net income of the trust equals the **Division 6E net income** of the trust
- amount of a beneficiary's present entitlement to trust income equals the amount of the beneficiary's **Division 6E present entitlement** to trust income.

Division 6E definitions are found under section 102UY of the ITAA 1936.

Division 6E income

The Division 6E income of the trust is the trust's income worked out on the assumption that it doesn't include any amounts attributable to:

- the amount of any capital gains that remained after applying capital losses and any CGT concessions
- the amount of any franked distributions that remained after reducing them by deductions directly relevant to them
- any franking credits.

The Division 6E income amount can't be less than nil – even if the amounts attributable to capital gains, franked distributions and franking credits exceed trust income.

Division 6E net income

Division 6E net income of the trust is the net income of the trust worked out on the assumption that it does not include:

- the amount of any capital gains that remained after applying capital losses and any CGT concessions

- the amount of any franked distributions that remained after reducing them by deductions directly relevant to them
- any franking credits.

Again, the amount cannot be less than nil.

Division 6E present entitlement to income

A beneficiary's Division 6E present entitlement to trust income is effectively the beneficiary's present entitlement excluding amounts relating to the beneficiary's share of capital gains and franked distributions.

Example: adjustment of Division 6 amounts

Tudor Trust has income of $470,000, consisting of $100,000 rental income, a $70,000 franked distribution and a $300,000 capital gain (for trust purposes). The trust also has $30,000 of franking credits and a $100,000 prior year capital loss and is entitled to the 50% CGT discount on the capital gain.

The trust's net income is $300,000. This is calculated as $100,000 rental income, $70,000 franked distribution, $30,000 franking credits and a net capital gain of $100,000 ($300,000 capital gain − $100,000 capital loss × 50% CGT discount).

The trustee resolves to distribute the trust income to 3 beneficiaries:

- Henry – all of the rental income ($100,000)
- Anne – all of the franked distribution ($70,000)
- Jane – all of the capital gain ($300,000).

The Division 6E income is $100,000. This is calculated as $470,000 less $70,000 (the franked distribution) and less $300,000 (the trust capital gain).

The Division 6E net income is $100,000. This is calculated as $300,000 less $100,000 (the sum of the franked distribution and attached franking credits) and $100,000 (the capital gain remaining after losses and discounts are applied).

Henry's Division 6E present entitlement to the Division 6E income of the trust is $100,000 (no part of which is attributable to capital gains or franked distributions). He is assessed on $100,000 under Division 6 (as he has a 100% share of the Division 6E income and is therefore assessed on 100% of the Division 6E net income).

Anne's Division 6E present entitlement to the Division 6E income of the trust is nil (because the franked distribution is disregarded). She is not assessed on any amount under Division 6. However, she is assessed on the franked distribution and attached franking credits under Subdivision 207-B of the ITAA 1997.

Jane also has a Division 6E present entitlement of nil (because the capital gain is disregarded). She is not assessed on any amount under Division 6. However, she is taken to have made a capital gain under Subdivision 115-C of the ITAA 1997.

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