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Australian Government
Australian Taxation Office

Partnership and trust tax returns instructions 2007

To help you complete the partnership and trust tax returns for 1 July 2006 – 30 June 2007

For more information visit **www.ato.gov.au**

OUR COMMITMENT TO YOU

We are committed to providing you with advice and information you can rely on.

We make every effort to ensure that our advice and information is correct. If you follow advice in this publication and it turns out to be incorrect, or it is misleading and you make a mistake as a result, we must still apply the law correctly. If that means you owe us money, we must ask you to pay it. However, we will not charge you a penalty or interest if you acted reasonably and in good faith.

If you make an honest mistake when you try to follow our advice and you owe us money as a result, we will not charge you a penalty. However, we will ask you to pay the money, and we may also charge you interest.

If correcting the mistake means we owe you money, we will pay it to you. We will also pay you any interest you are entitled to.

If you feel this publication does not fully cover your circumstances, seek help from the Tax Office or a professional adviser.

The information in this publication is current at May 2007. We regularly revise our publications to take account of any changes to the law, so make sure that you have the latest information. If you are unsure, you can check for a more recent version on our website at **www.ato.gov.au** or contact us.

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P information relevant to partnership tax returns

ABOUT THESE INSTRUCTIONS

The *Partnership and trust tax returns instructions 2007* will help you complete the *Partnership tax return 2007* (NAT 0659–6.2007) and the *Trust tax return 2007* (NAT 0660–6.2007).

The instructions include:

- information about the schedules that partnerships and trusts might need to complete and attach to their tax returns
- details of record keeping requirements, and
- separately identified information for partnerships and trusts.

When we refer to 'you' or 'your business' in these instructions, we are referring either to you as a business entity – the partnership or trust – that conducts a business, or to you as the tax agent, partner or trustee responsible for completing the tax return.

PUBLICATIONS AND SERVICES

To find out how to get a publication referred to in these instructions and for information about our other services, see the inside back cover.

INTRODUCTION

These instructions will help you complete the *Partnership tax return 2007* and the *Trust tax return 2007*. They are **NOT** a guide to income tax law. You may need to refer to other publications. See pages 109–110 for a full list of publications referred to in these instructions and the inside back cover for information about how to get them.

These instructions contain a number of abbreviations for names or technical terms. Each term abbreviated is spelt out the first time it is used and there is also a list of abbreviations on page 108.

> **!** NOTE
>
> Parts of this publication apply only to the partnership tax return or the trust tax return. These parts are identified by:
>
> - the symbols **P** and **T**, and
> - green shaded text for partnerships and purple shaded text for trusts.

WHAT'S NEW

Changes to capital gains tax (CGT) for foreign residents

The *Tax Laws Amendment (2006 Measures No. 4) Act 2006* has changed the CGT rules that apply to foreign residents by:

- narrowing the range of CGT assets to Australian real property (including mining rights) directly held by a foreign resident, and to any CGT asset (other than Australian real property) used by the foreign resident in carrying on a business through a permanent establishment (PE) in Australia, and
- strengthening the application of CGT to foreign residents by applying CGT to indirect Australian real property interests (that is, non-portfolio interests in interposed entities, including foreign interposed entities, where more than 50% of the value of the interposed entities' assets is attributable to Australian real property, whether directly, or indirectly through one or more other interposed entities).

These measures also amend provisions that apply to taxpayers who cease to be, or become, Australian residents for tax purposes, ensuring that the policy intent of those provisions is maintained.

Date of effect

The new rules in Division 855 and Subdivision 960-GP of the *Income Tax Assessment Act 1997* (ITAA 1997) apply to CGT events that happen on or after 12 December 2006. In addition, the cost base of indirect Australian real property interests that are interests that were not previously taxable for foreign residents, and were acquired on or after 20 September 1985, is reset to the market value of such interests on 10 May 2005.

Further reading

For further information, see the *Guide to capital gains tax 2007* (NAT 4151–6.2007).

New family trust election and interposed entity election status boxes

This year there have been changes made to the way you record the election status of any family trust election and interposed entity elections lodged. In prior years you were asked to provide an alpha code which you selected from tables provided in these instructions. This year you are required to provide a four-digit numeric income year, for example, 1995. Examples of how to select the correct income year are provided on page 14.

2006 Budget announcement concerning family trust elections and interposed entity elections

In the 2006 Budget, the Government announced that it would make changes to the family trust election and interposed entity election rules to increase flexibility for family trusts. The measure will have effect from the income year in which the enabling legislation receives royal assent (see Treasurer's Press Release No. 39, 9 May 2006).

At the time of printing these instructions, these changes had not become law. The information on our website at **www.ato.gov.au** will be updated once the new law is enacted. You can also phone the Business Infoline (see the inside back cover).

Deductions for political contributions and gifts

The *Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Act 2006* introduced a deduction for gifts or contributions over $2 to registered political parties and gifts or contributions over $2 to independent members of (or candidates for) an Australian parliament or legislative assembly. The partnership or trust can claim up to $1,500 (in total) for gifts and contributions to political parties and up to $1,500 (in total) for gifts and contributions to independents. The new rules apply to contributions or gifts made on or after 22 June 2006.

Taxation of trustees with non-resident trustee beneficiaries

The Tax Laws Amendment (2007 Measures No. 3) Bill 2007 was introduced into Parliament on 10 May 2007. Upon enactment the Bill will amend Division 6 of the *Income Tax Assessment Act 1936* to extend the taxation of trustees to situations where a non-resident trustee beneficiary is presently entitled to income of the trust, with effect from 1 July 2006.

Non-commercial loans and private companies

The Government announced amendments to the integrity rules which apply to distribution by private companies (Division 7A of the *Income Tax Assessment Act 1936* [ITAA 1936]) (see Minister for Revenue and Assistant Treasurer's Press Release No. 089, 6 December 2006).

These rules prevent private companies from making tax-free distributions of profits to shareholders (or their associates). Unless they come within specified exclusions, advances, loans and other credits to shareholders (or their associates) are treated as assessable dividends to the extent that there are realised or unrealised profits in the company. When an amount is treated as a dividend under Division 7A the private company's franking account is debited and the dividend is taxable in the hands of the shareholder or associate, without access to a franking credit to offset the tax paid by the company.

The Government will reduce the double-penalty nature of Division 7A by removing the automatic debiting of the company's franking account when an amount is treated as a dividend.

The Commissioner of Taxation will also be provided with a new discretion to disregard an amount treated as a dividend where a taxpayer has attempted to comply with Division 7A but made an honest mistake.

A range of other technical amendments will also be made to the rules to provide more flexibility for taxpayers.

Changes to the fringe benefits tax (FBT) laws will simplify their interaction with Division 7A.

Section 108 of the ITAA 1936 (the precursor to Division 7A) will also be repealed as it is a duplicate provision that is no longer necessary.

The changes are expected to generally have effect from 1 July 2006. However, the discretion will apply from 1 July 2002 and the FBT amendments from 1 April 2007.

At the time of printing these instructions, these changes had not become law. The information on our website at **www.ato.gov.au** will be updated once the new law is enacted.

Australian property trusts – restructuring with an interposed head trust

In the 2007 Budget the Government announced that it would pass new legislation to be effective from the 2006–07 year that will allow certain stapled entities, such as Australian listed property trusts, to restructure with an interposed head trust without taxation consequences. The proposed measures will provide CGT rollover relief for investors in a stapled group where a unit trust has been interposed between the investors in the stapled group and the stapled entities, and will ensure that these restructures do not result in the head trust being taxed as if it was a company.

SCHEDULES

- Complete only **one** copy of the appropriate schedule.
- Attach all completed schedules to the tax return unless otherwise directed. Returns lodged without all the required schedules may not be considered to have been lodged in the approved form. Unless all schedules are lodged by the due date, a failure to lodge on time penalty may be applied.
- When completing the schedules print neatly in BLOCK LETTERS with a black pen only.

CAPITAL ALLOWANCES SCHEDULE

You do **not** need to complete a *Capital allowances schedule 2007* if the partnership or trust is eligible to enter or continue in the simplified tax system (STS) and has chosen to do so at item **3 Simplified tax system (STS) elections**.

In other cases, complete and attach a capital allowances schedule if the partnership or trust has included an amount greater than:

- $15,000 at **Expenses**, **K Depreciation expenses** item **5** unless the partnership or trust is exiting from the STS at item **3** or has previously exited from the STS, and the amount at **K** relates entirely to STS depreciating assets
- $1,000 at item **47 Deduction for project pool**, or
- $75,000 at either item **43 Intangible depreciating assets first deducted** or at item **44 Other depreciating assets first deducted**.

For more information, see the *Capital allowances schedule instructions 2007* (NAT 4089–6.2007).

Worksheets 1 and 2 in the *Guide to depreciating assets 2007* (NAT 1996–6.2007) will help you to complete the *Capital allowances schedule 2007*. Labels **G**, **H**, **I**, **J** and **K** on worksheet 1 and labels **L**, **M**, **N**, **O**, **P** and **Q** on worksheet 2 correspond to labels on the capital allowances schedule.

CAPITAL GAINS TAX (CGT) SCHEDULE **T**

You do **not** need to complete a *Capital gains tax (CGT) schedule 2007* (CGT schedule) if the trust was a subsidiary member of a consolidated group at the end of the income year and has completed **Z2 Consolidated subsidiary member** item **2**.

In other cases, complete a CGT schedule and attach it to the trust's tax return if:

- the trust's total current year capital gains for the income year are greater than $10,000, or
- the trust's total current year capital losses for the income year are greater than $10,000.

The *Guide to capital gains tax 2007* (NAT 4151–6.2007) will help you complete the CGT schedule. It also includes:

- a capital gain or capital loss worksheet for calculating a capital gain or capital loss for each CGT event
- a CGT summary worksheet for calculating a net capital gain or net capital loss for the income year, and
- the CGT schedule.

LOSSES SCHEDULE

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You need to complete a losses schedule and attach it to the trust's tax return if the trust:

- has a total of tax losses and net capital losses carried forward to the 2007–08 income year greater than $100,000
- is a life insurance entity and has either complying superannuation class tax losses or a virtual pooled superannuation trust (PST) net capital loss carried forward to the 2007–08 income year
- is a listed widely held trust that is required to satisfy the same business test in Subdivision 269-F in Schedule 2F to the *Income Tax Assessment Act 1936* (ITAA 1936) – as required by section 266-125 in Schedule 2F – to be able to claim a deduction for a tax loss in the 2006–07 income year or to apply a tax loss in a later income year
- claims a deduction for foreign source losses
- has current year foreign source losses
- has foreign source losses carried forward to later income years
- claims a deduction for prior year controlled foreign company (CFC) losses
- has current year CFC losses, or
- has CFC losses carried forward to later income years.

If you complete a losses schedule, transfer the totals of the amounts at part A of the losses schedule to the corresponding **U** and **V** at item **24 Losses information** on the trust tax return. However, if you do not need to complete a losses schedule but the trust has tax losses or net capital losses available to be carried forward to later income years, complete the information required at **U** and **V** at item **24** of the trust tax return as appropriate. For more information, see the *Losses schedule instructions 2007* (NAT 4088–6.2007).

If you need to complete a losses schedule under the above criteria, you may also need to complete a CGT schedule. For more information, see the *Guide to capital gains tax 2007*.

NON-INDIVIDUAL PAYG PAYMENT SUMMARY SCHEDULE

Pay as you go (PAYG) withholding applies to several payments including:

- payments for a supply where no ABN is quoted
- payments arising from investments where no TFN or ABN is quoted, and
- certain payments to foreign residents prescribed in the Regulations.

If the payer withheld an amount from a payment to the partnership or trust because the partnership or trust did not quote an ABN, the payer should have sent a *PAYG Payment summary – withholding where ABN not quoted* to the partnership or trust.

If the payer withheld an amount from a payment to the partnership or trust because of the operation of foreign resident withholding, the payer should have sent a *Payment summary – foreign resident withholding* to the partnership or trust.

A payer may issue a receipt, remittance advice or similar document in place of the *PAYG Payment summary – withholding where ABN not quoted* or *Payment summary – foreign resident withholding*. If the partnership or trust did not receive or has lost its copy of a payment summary, contact the payer responsible and request a signed photocopy of the payer's copy. Include details from each *PAYG payment summary – withholding where ABN not quoted* and/or *Payment summary – foreign resident withholding* on a *Non-individual PAYG payment summary schedule 2007*.

Complete a *Non-individual PAYG payment summary 2007* schedule if amounts are reported at:

- **C** and/or **D** **Gross payments where ABN not quoted** item **5 Business income and expenses**
- **B** **Gross payments subject to foreign resident withholding** item **5 Business income and expenses**
- **T** **Tax withheld where ABN not quoted** item **6**.
- **U** **Credit for tax withheld – foreign resident withholding** item **6**.

> **NOTE**
> Income subject to foreign resident withholding that has been included in a distribution received from other partnerships and/or trusts must be shown at item **8**. A *Non-individual PAYG payment summary schedule 2007* is not required for these distributions because they do not have an associated payment summary.

Print the partnership's or trust's tax file number (TFN) and name in the appropriate boxes at the top of the schedule.

From each *PAYG Payment summary – withholding where ABN not quoted* or *Payment summary – foreign resident withholding* record on the schedule:

- payer's ABN (or withholding payer number)
- total tax withheld
- gross payment, and
- payer's name.

When you have entered details of all these payment summaries on the schedule, attach the schedule to the partnership or trust tax return.

Do **not** attach copies of each *PAYG Payment summary – withholding where ABN not quoted* or *Payment summary – foreign resident withholding* to the tax return – keep them with the partnership's or trust's copy of the tax return and keep a copy of the schedule with the partnership's or trust's tax records.

PERSONAL SERVICES INCOME SCHEDULE

There are special rules for the income tax treatment of certain personal services income (PSI) earned by contractors and consultants which started on 1 July 2000.

For the 2002–03 and later income years the measure also applies to payees under the former prescribed payments system who were not subject to the measure in the 2000–01 and 2001–02 income years.

If the partnership or trust received an individual's PSI, complete item **28 Personal services income** on the partnership or trust tax return. Also complete a *Personal services income schedule 2007* (PSI schedule) and attach it to the tax return. For more information on the PSI rules, see the instructions that accompany the PSI schedule.

THIN CAPITALISATION SCHEDULE

You do **not** need to complete a *Thin capitalisation schedule 2007* if the partnership or trust was a subsidiary member of a consolidated group at any time during the income year and has completed **Z2 Consolidated subsidiary member** item **2**.

In other cases, complete a *Thin capitalisation schedule 2007* if the thin capitalisation rules apply to the partnership or trust. For more information, see appendix 3 and the *Guide to thin capitalisation*, available on our website.

Do **not** attach the completed schedule to the tax return – post it to:

Australian Taxation Office
PO Box 1365
ALBURY NSW 2640

GENERAL INFORMATION

AUSTRALIAN BUSINESS REGISTER

We are authorised by the *A New Tax System (Australian Business Number) Act 1999* to collect certain information relating to your entity. We may use business details supplied on your tax return to update your trading name, industry classification, status of business, wind up date, public officer, e-mail address and main business address on the Australian Business Register (ABR). We may also use postal address details from you tax return in the event that we cannot contact you through your ABR postal address.

Where authorised by law, selected information on the ABR may be made publicly available and some may be passed to a wide range of government agencies, including Commonwealth, state and local government agencies.

You can find details of agencies regularly receiving information from the ABR at **www.abr.gov.au**
You can also phone us on **13 28 66** between 8:00am and 6:00pm Monday to Friday and have a list of the agencies sent to you.

These agencies may use ABR information for purposes authorised by their legislation or for carrying out other functions of their agency. Examples of possible uses include registration, reporting, compliance, validation and updating of databases.

In addition to the publicly available information, these agencies can also access the:

- name of the entity's associates such as partner, trustee, or public officer
- entity's address for service of notices
- entity's principal place of business
- entity's email address, and
- Australian and New Zealand Standard Industrial Classification (ANZSIC) code for the business conducted by the entity.

CHANGES AFFECTING THE MAKING OF FAMILY TRUST AND INTERPOSED ENTITY ELECTIONS

Changes were made in 2005 to the rules regarding the making of family trust and interposed entity elections. Generally, the changes allow entities to make family trust and interposed entity elections at any time in relation to earlier years provided certain conditions are met. The key points are:

- To elect an earlier income year, entities must have, from the beginning of the specified income year until 30 June of the income year immediately preceding the year in which the election is made:
  - passed the family control test, and
  - made all conferrals of present entitlement or actual distributions of income or capital to the individual specified in the election or to members of that individual's family group.

- The changes apply to family trust and interposed entity elections specifying the 2005 or later income years.
- The changes do not apply to family trust and interposed entity elections specifying the 2004 or earlier income years.

If the above conditions are met, an entity can make family trust and interposed entity elections with the entity's income tax return or at any time during the year. The election must be in writing and in the approved form.

For more information, phone the Business Infoline or the Tax Agents Infoline (see the inside back cover).

CERTAIN TRUST AMOUNTS TREATED AS DIVIDENDS

T

On 29 June 2004, legislation was introduced that inserted Subdivision EA to replace the previous rules contained in section 109UB that treated certain trustee loans as deemed dividends from a private company.
In general terms, the new rules apply where a trustee makes a payment, loan or debt forgiveness in favour of a shareholder (or an associate of a shareholder) of a private company who is a beneficiary of the trust. See Y item **54 Unpaid present entitlement to a private company**.

For more information on section 109UB or Subdivision EA, visit the dividends and investments page on our website or phone the Business Infoline (see the inside back cover).

INTERNATIONAL TAXATION – THE TAXATION TREATMENT OF CERTAIN FOREIGN HYBRID ENTITIES

Broadly, 'foreign hybrid' means entities such as non-resident limited liability partnerships (LLP), limited liability companies in the USA (US LLC) and other similar entities that are taxed on a partnership basis in their country of formation – that is, the overseas jurisdiction taxes the members on their share of the entity's income. The entity itself is not taxed.

Under Division 830 of the ITAA 1997, non-resident limited partnerships and other foreign hybrids are treated as partnerships and not as companies for Australian income tax. Investors in these entities are treated for Australian tax purposes as having partnership interests.

For more information about foreign hybrids, visit our website.

FOREIGN EXCHANGE (FOREX) GAINS AND LOSSES

Under the forex measures, foreign exchange gains and losses are generally brought to account, as assessable income or allowable deductions, when realised. The measures cover both foreign currency denominated arrangements, and broadly, arrangements to be cash-settled in Australian currency with reference to a currency exchange rate. Some foreign exchange gains and losses of a private or domestic nature, or in relation to exempt income or non-assessable non-exempt income, are not brought to account under the forex measures.

If a foreign exchange gain or loss is brought to account under the forex measures and under another provision of the tax law, it is assessable or deductible only under the forex measures.

In general, foreign exchange gains and losses will not be assessable or deductible under these measures if they arise from certain acquisitions or disposals of capital assets, or acquisitions of depreciating assets, and the time between the acquisition or disposal and payment is no more than 12 months. Instead, any foreign exchange gain or loss is usually matched with or integrated into the tax treatment of the underlying asset.

The general translation rule requires all tax relevant amounts to be expressed in Australian currency regardless of whether there is an actual conversion of that foreign currency into Australian dollars.

For most partnerships and trusts, the forex measures and general translation rule have applied from 1 July 2003. However, partnerships and trusts with certain early substituted accounting periods were not subject to these provisions until the first day of their 2004–05 income year.

The tax consequences of gains or losses on existing foreign currency assets, rights and obligations that were acquired or assumed before the commencement date are determined under the law as it was before these measures came into effect unless:
- a transitional election that brings these under these forex measures has been made, or
- there is an extension of an existing loan (for example, an extension by new contract or a variation to an existing contract) that brings the arrangement within these measures.

More information about these measures and on how to calculate your foreign exchange realisation gains and losses is available on our website (search for 'forex').

ELECTRONIC LODGMENTS AND THE PARTNERSHIPS AND TRUSTS RENTAL PROPERTY SCHEDULE 2007

Tax agents who lodge partnership or trust tax returns through the electronic lodgment service (ELS) must complete the *Partnerships and trusts rental property schedule 2007* if item **9 Rent** is completed. You do not have to complete the partnership and trusts rental property schedule if you are lodging a paper version of the partnership or trust tax return.

INFORMATION MATCHING

The Tax Office is making increasing use of information-matching technology to verify the correctness of tax returns. Ensure that all information is fully and correctly declared on your tax returns. Certain claims that are made may be subject to additional scrutiny by the Tax Office.

In particular, we will be checking the following on the 2007 tax returns:

- income and credits for withholding where an ABN has not been quoted, against information provided to us by payers – see pages 24 and 35
- distributions from partnerships and trusts – see pages 36–39
- total salary and wages paid against the PAYG withholding system – see page 56
- interest and dividend income – see pages 40–42 and 78
- franking credits claimed. We will also check that distributions that include franked dividends are correctly grossed up.

HOBBY OR BUSINESS

It is important to determine whether the partnership or trust is carrying on a business as distinct from pursuing a hobby, sport or recreational activity that does not produce assessable income.

The factors or 'business indicators' that various courts and tribunals have taken into account in determining if a business exists for tax purposes include whether the activity:

- has actually commenced
- has a significant commercial purpose or character
- is undertaken with a purpose of profit as well as a prospect of profit
- is carried out in a manner that is characteristic of the industry
- has repetition, regularity and/or continuity
- is planned, organised and carried on in a business-like manner
- is of a sufficient size, scale and permanency to generate a profit, and
- is not more properly described as a hobby, recreation or sporting activity.

For more information, see **Are you carrying on a business?** in *Tax basics for small business* (NAT 1908).

If you are a primary producer, see also *Taxation Ruling TR 97/11 – Income tax: am I carrying on a business of primary production?*

PRIVATE RULING BY THE COMMISSIONER OF TAXATION

A private ruling is a written expression of opinion by the Commissioner of Taxation (the Commissioner) about the way in which tax laws and other specified laws administered by the Commissioner would apply to, or be administered in relation to, an entity in relation to a specified scheme.

An application for a private ruling must be made in the approved form and in accordance with Divisions 357 and 359 of Schedule 1 to the *Taxation Administration Act 1953* (TAA).

The required information and documentation that accompany a private ruling request must be sufficient for the Commissioner to make a private ruling and include:

- the entity to whom the ruling is to apply
- the facts describing the relevant scheme or circumstance
- relevant supporting documents such as transaction documents
- issues and questions raised that relate to the relevant provision to which the ruling relates, and
- your arguments and references on such questions.

The Commissioner may request additional information to make a ruling. The Commissioner will then consider the request and either issue or, in certain limited circumstances, refuse to issue a private ruling.

Publication

To further improve the administration of the private rulings system, the Tax Office now publishes all notices of private rulings for public record. These publications are on our website.

Private rulings are published in an edited form to safeguard taxpayer privacy.

Private ruling applicants are invited to provide a statement detailing any information they believe should be removed from the published version of their private ruling.

If the information the applicant wants removed is more than simply names and addresses, reasons why publication of this information will breach the applicant's privacy should be provided.

Before publication, applicants can comment on the edited version of their private ruling.

Review rights

Taxpayers can object to adverse private rulings or a failure to make a private ruling in much the same way that they can object to assessments. They can also seek a review of adverse objection decisions on a private ruling by the Administrative Appeals Tribunal (AAT) or a court. An explanation of review rights and how to exercise them is issued with the private ruling. An objection to a ruling can be lodged within the later of:

- 60 days after the receipt of the ruling
- four years from the last day allowed for lodging a tax return for the last income year covered by the ruling.

A taxpayer cannot object to a private ruling if an assessment has occurred covering the same facts and issues. The taxpayer could, of course, object to the assessment.

Where a taxpayer has objected against a private ruling the taxpayer cannot object against a later assessment about the same matter ruled on, unless the facts have changed.

Private rulings dealing with the ITAA 1936 continue to apply to the ITAA 1997, to the extent that the old law to which the ruling applies expresses the same ideas as the new law in the ITAA 1997.

When rulings are binding

A private ruling is binding on the Commissioner where it applies to an entity and the entity has relied on the ruling by acting (or omitting to act) in accordance with the private ruling. An entity can stop relying on a private ruling at any time (unless prevented by a time limit imposed by a taxation law) by acting (or omitting to act) in a way that is not in accordance with the private ruling; and can subsequently resume relying on the private ruling by acting accordingly. The Commissioner cannot withdraw a private ruling. However, where the scheme to which a private ruling relates has not begun to be carried out and where the private ruling relates to an income year or other accounting period, and that period has not begun, the Commissioner can make a revised private ruling.

PENALTIES AND INTEREST CHARGES

The law imposes penalties on partners and trustees for:

- failing to lodge a tax return on time and in the approved form
- having a tax shortfall or over-claiming a credit that is caused by:
  - making a false or misleading statement
  - taking a position that is not reasonably arguable
- refusing to provide a tax return from which the Commissioner can determine a liability
- failing to keep and produce proper records
- preventing access to premises and documents, or
- failing to retain or produce declarations.

Partners, trustees and beneficiaries are liable for an interest charge where they have:

- tax, penalty or certain other amounts which remain unpaid after the due date for payment
- a variation of a PAYG instalment amount or rate which is less than 85% of the amount or rate that would have covered the partner's, trustee's or beneficiary's actual liability on business and investment income for the year, or
- an amendment of their income tax assessment increasing their liability (for the 2004–05 and later income years this interest charge is known as 'shortfall interest charge') see the next column.

REPORT ON ASPECTS OF INCOME TAX SELF ASSESSMENT

On 29 June 2005, *Tax Laws Amendment (Improvements to Self Assessment) Act (No. 1) 2005* and *Shortfall Interest Charge (Imposition) Act 2005* became law. This legislation is intended to provide greater protection and certainty for a partner in a partnership or trustee of a trust in relation to interest charges and penalties. In particular, the Acts:

- introduce a separate interest charge that has a lower rate than the general interest charge for shortfalls of income tax
- improve the transparency of the Tax Office's administrative processes of imposing penalties on taxpayers who understate a tax liability, and
- abolish the separate penalty for failing to follow a Tax Office private ruling.

Shortfall interest charge

For the 2000–01 to 2003–04 income years, where the income tax liability of a partner in a partnership or trustee of a trust is increased, the increase is treated as a late payment. The amended assessment or shortfall is due on the due date for the original (understated) assessment and the general interest charge applies from that date. The new legislation applies to the 2004–05 income year and later years and provides that, where an assessment is amended because of a tax shortfall the due date for payment of the amended assessment is 21 days after the Commissioner gives the notice increasing the liability. Generally the partners or trustees are liable to pay a shortfall interest charge from the due date of the original assessment to the day before the issue date of the amended notice of assessment on the increase. The partners or trustees will be notified of the amount of the shortfall interest charge and it will be due 21 days after the notice is given. General interest charge will apply automatically to any unpaid amount of the amended assessment and the shortfall interest charge once the due date has passed.

The shortfall interest charge replaces the general interest charge during the shortfall period. It is calculated at a rate four per cent lower than the general interest charge.

The Commissioner may remit all or part of the shortfall interest charge when it is fair and reasonable to do so. For further information on remission of the shortfall interest charge refer to our website.

Penalties

In addition to interest charges, penalties may be applied to any tax shortfall.

Starting from the 2004–05 income year, there is no longer a specific penalty for a tax shortfall that arises as a result of failing to follow a private ruling. However, if a taxpayer does not follow a private ruling they have obtained, penalties may still apply for a tax shortfall that arises if, for example, they have not exercised reasonable care or do not have a 'reasonably arguable' position.

The Commissioner must now explain, in writing, the reasons for a penalty and, if remission of a penalty has been considered but not fully granted, the reasons for the decision not to remit.

The new law also makes clear that when considering whether a penalty should be imposed, the Tax Office will consider a taxpayer's position to be 'reasonably arguable' if it would be concluded in the circumstances that what is argued for is about as likely to be correct as incorrect, or is more likely to be correct than incorrect.

Further information is available on our website or by phoning the Business Infoline (see the inside back cover).

PURCHASE OR SALE OF A BUSINESS DURING THE INCOME YEAR

Keep a record of the following:

- the name and address of the other party to the transaction
- the purchase or sale price, including details of the allocation of purchase or sale price to all items purchased or sold, including stock on hand and depreciating assets
- a copy of the contract of purchase or sale.

T If there is no trustee who is an Australian resident the onus is on the public officer to keep this information.

RECORD KEEPING REQUIREMENTS

Record keeping requirements and retention

If you are carrying on a business, you must keep records relevant for any taxation purpose that record and explain all transactions and other acts you are engaged in. Subsection 262A(2) of the ITAA 1936 prescribes the records to be kept as including:

- any documents that are relevant for the purpose of ascertaining the person's income or expenditure
- documents containing particulars of any election, estimate, determination or calculation made by the person for taxation purposes and, in the case of an estimate, determination or calculation, particulars showing the basis on which and the method by which the estimate, determination or calculation was made.

Generally, the partnership or trust must keep all relevant records for five years after those records were prepared or obtained, or five years after the completion of the transactions or acts to which those records relate, whichever is the later. This period may be extended in certain circumstances. Keep records in writing and in English; however, you can keep them in an electronic form, or on microfiche as long as the records are in a form that we can access and understand to ascertain your taxation liability – see *Taxation Ruling TR 2005/9 – Income tax: record keeping – electronic records* and section 262A.

Partnership record retention P

Keep the following records:

- a copy of the partnership agreement; if none exists, a copy of the partnership's certificate of registration; if none exists, documentary evidence that partners were carrying on their activities as a partnership
- commencement date of the partnership or the date of reconstitution
- detailed statement of assets and liabilities
- details of each partner's capital accounts and sources of capital contributed
- details of each partnership bank account including the name and number of the account, the bank and branch at which it is kept, the date the account was opened and the names of persons authorised to operate the account and the date of such authorisation
- the family relationship of the partners and, if the partners are husband and wife, details of the nature and extent of the services rendered by each to the partnership
- whether the partners own jointly or in common, any property from which interest, dividends, rents or royalties are derived
- the names in which business contracts are made
- details of any services rendered in the production of assessable income by a partner under 18 years of age, or by a beneficiary under 18 years of age in a trust where the trustee is a partner – details must include the nature, extent and value of the services rendered
- whether the partnership is constituted or conducted such that any partners cannot, of their own will, deal with any part of their share of the partnership income,
- whether any partners are required to use any part of their share of the profits to meet any debt to another person
- records that show you have met your choice of superannuation fund employer obligations – for more information, visit our website, **www.superchoice.gov.au** or phone the Super Choice Infoline (see inside back cover).

Tax losses record keeping T

If a trust incurs tax losses, you may need to keep records longer than five years from the date when the losses were incurred.

Generally, tax losses incurred this year can be carried forward indefinitely, until they are applied by recoupment. When applied, the loss amount is a figure that leads to the calculation of the trust's net income (and beneficiary's taxable income) in that year. It is in the trust's interest to keep records substantiating the balance of this year's losses until the amendment period for the trust's or beneficiary's assessment (as applicable) for the recoupment year in which the losses are fully applied has lapsed.

See *TD 2007/2 - Income tax: should a taxpayer who has incurred a tax loss or made a net capital loss for an income year retain records relevant to the ascertainment of that loss only for the record retention period prescribed under income tax law?*

Capital gains tax record keeping

For more record keeping information for capital gains tax, see the *Guide to capital gains tax 2007*.

e-Record

e-Record is an electronic record keeping package we have developed to help small/micro businesses and non-profit organisations keep good business records.

It is designed for businesses who use a cash basis of accounting and who wish to make the transition from paper-based products to an electronic record keeping package. It is not designed for businesses already using a commercially available accounting software package.

e-Record has easy-to-use electronic worksheets that produce daily and weekly information and monthly, quarterly and annual summaries, as well as automatic calculations and consolidations to help businesses complete their activity statements.

You can download the latest version of *e-Record* from our website at **www.ato.gov.au/erecord** or get a copy of the CD-ROM by phoning **1300 139 051**.

Record keeping for overseas transactions and interests

Keep records of any overseas transactions in which the partnership or trust is involved – or has an interest – during the income year.

The involvement can be direct or indirect – for example, through individuals, trusts, companies or other entities. The interest can be vested or contingent, and includes a case where the partnership or trust has direct or indirect control of:

- any income from sources outside Australia not disclosed elsewhere on the tax return, or
- any property – including money – situated outside Australia. Where this is the case keep a record of the following:
  - the location and nature of the property
  - the name and address of any partnership, trust, business, company, or other entity in which the partnership or trust has an interest, and
  - the nature of the interest.

If an overseas interest was created by exercising any power of appointment, or if the partnership or trust had an ability to control or achieve control of overseas income or property, keep a record of the following:

- the location and nature of the property, and
- the name and address of any partnership, trust, business, company, or other entity in which the partnership or trust has an interest.

T If there is no trustee who is an Australian resident the onus is on the public officer to keep this information.

INFORMATION FOR PARTNERSHIPS P

Partnership

A partnership is an association of persons carrying on a business as partners or receiving income jointly – see *Taxation Ruling TR 94/8 – Income tax: whether business is carried on in partnership (including 'husband and wife' partnerships)*.

A partnership is not a taxable entity. Partners are taxed on their share of profits or are entitled to a deduction for their share of a loss on their own tax returns.

Some deductions are not available to the partnership but may be claimed by the partners – see appendix 7.

Non-resident partner

A partner who is not a resident of Australia is not taxed on the share of net income of the partnership attributable to sources outside Australia. If it is believed that any partner who has a share of such income is not an Australian resident, keep a record of their name and residential address, the basis of any contention and the partner's share of income derived from sources outside Australia.

Variation of partnership agreement

Keep a copy of any variation to the partnership agreement for the life of the partnership plus a period of five years.

Reconstituted partnerships

Under the law, if the composition of a partnership changes – for example a partner retires or dies or a new partner is admitted – the partnership is dissolved and a new partnership is formed.

However, if the change in the composition amounts only to a technical dissolution of the partnership, the partnership may be able to continue as a reconstituted continuing entity. As such it avoids the need to change its TFN and ABN, and only one partnership tax return is required at the end of the income year.

The Tax Office will treat a changed partnership as a reconstituted continuing entity if the original partnership agreement incorporated a provision for a change in membership or shares and the following factors apply:

- the partnership is a general law partnership
- at least one of the partners is common to the partnership before and after reconstitution
- there is no period where there is only one 'partner' (that is, in a two person partnership, there is a direct transfer of interest from the outgoing partner to a new partner)
- the partnership agreement includes an express or implied continuity clause, and
- there is no break in the continuity of the enterprise or firm, that is, the partnership's assets remain with the continuing partnership and there are no changes to the nature of the business, the client or customer base or the business name or name of the firm.

For more information, see *GSTR 2003/13 – Goods and services tax: general law partnerships*.

At the end of the income year, a reconstituted continuing partnership needs to lodge only one partnership tax return covering the full income year. The tax return must include the distributions made to every person who was a partner at any time during the income year, including those who left the partnership during the year.

When lodging the partnership tax return, supply the following details:

- the date of the dissolution
- the date of the reconstitution
- the names of the new, continuing and retiring partners
- the TFN or address and date of birth of all new partners, and
- details of the changes if the persons authorised to act on behalf of the partnership changed.

If the changes in membership amount to more than a technical dissolution of the partnership, a new partnership is formed. This new partnership needs a new TFN and ABN. Both partnerships will need to lodge a partnership tax return. Lodge one tax return for the old partnership from the beginning of the income year to the date of its dissolution. Lodge another tax return for the new partnership from the date of its formation to the end of the income year.

Lodging a partnership tax return

A partnership tax return is lodged by the partners resident in Australia or by the senior partner. If there is no resident partner, the agent in Australia lodges the tax return. For information relating to non-residents, see **Non-resident partner** on the previous page.

Keep a copy of the partnership tax return and related documents, as there may be a charge for obtaining a copy from the Tax Office.

Lodge a partnership tax return except where:

- the partnership's only income is:
  - rent from an investment property held by the partners as co-owners, and/or
  - interest derived jointly by the partners and each partner shows their share of the income and expenses on their own tax return
- the partnership was a subsidiary member of a consolidated group for the full income year, or
- an application for exemption from lodging a partnership tax return has been approved by the Tax Office.

We may grant an exemption if each partner gives an undertaking to provide details of all relevant income, expenditure and deduction items, as well as distribution details, on their own tax return.

The application for exemption must confirm that the partners have authorised their tax agent to show information pertaining to the partnership on each partner's tax return. If granted, an exemption applies to all future year tax returns until the partners or the Tax Office cancels the exemption.

We will not grant an exemption if a partner is claiming a credit for amounts withheld under the no ABN withholding rules from payments made to a partnership.

Send the partnership tax return to the relevant lodgment address listed on page 111. Send tax returns that include one or more interposed entity election(s) to the address on page 16.

Limited partnerships

All partnerships lodge a partnership tax return except certain limited partnerships, which are taxed as companies and must therefore lodge a *Company tax return 2007*.

This does not apply to a limited partnership (including an incorporated limited partnership) that is a venture capital management partnership or a limited partnership that is unconditionally registered with the Pooled Development Fund Registration Board as a venture capital limited partnership or an Australian fund of funds. These limited partnerships are treated as ordinary partnerships and not as companies.

Other attachments to the tax return

In some cases we need more information about the partnership to raise correct assessments for the individual partners. These are:

- where the partnership attaches an election, notification, request or application when lodging the partnership tax return
- where the partnership has received a bonus or other amount in respect of a short-term life assurance policy issued after 7 December 1983 – see **12 Other Australian income** on page 42
- where the partnership has paid or credited unfranked dividends or interest to a non-resident of Australia or has received unfranked dividends or interest on behalf of a non-resident of Australia – see appendix 1
- reconstituted partnerships where the dissolution of the partnership was only technical and the partnership business carried on as per GSTR 2003/13 – see **Reconstituted partnerships** on the previous page – which must supply the following details:
  - the date of dissolution
  - the date of reconstitution
  - the names of the new, continuing and retiring partners
  - the TFN or address and date of birth of all new partners, and
  - details of the changes if the persons authorised to act on behalf of the partnership changed.

If any of the above circumstances apply, attach separate pages, headed SCHEDULE OF ADDITIONAL INFORMATION, showing the full details, the partnership name and TFN, sign it and attach it to the partnership tax return. Print **YES** in the **Have you attached any 'other attachments'?** box at the top of page 1 of the tax return.

Partnerships and capital gains tax

A partnership does not own assets for capital gains tax (CGT) purposes. A partnership asset is owned by the partners in the proportion to which they have agreed. If a CGT event happens to a partnership during the income year, or the partnership received a share of a capital gain from a trust, each partner must include their share of the capital gain or capital loss on their own tax return. For more information about how a partner returns their share of a capital gain or capital loss, see the *Guide to capital gains tax 2007*.

INFORMATION FOR TRUSTS

T

Appointment of public officer

If a trust carries on a business in Australia or derives income from property in Australia and there is no trustee who is an Australian resident, the trustee generally appoints a public officer. Broadly, the public officer must be a natural person of at least 18 years of age residing in Australia and the Commissioner must be notified in writing of the name and address of the public officer.

The trust does not need to appoint a public officer if the Australian income of the trust consists solely of dividends, interest and/or royalties subject to withholding tax, or the Commissioner has granted an exemption in writing.

Failure or neglect to appoint a public officer may result in prosecution. On conviction, a fine of up to $50 may be imposed for each day that the trustee fails or neglects to meet these requirements.

The public officer is answerable for doing everything required to be done by the trustee of the trust under the ITAA 1936, the ITAA 1997 or the Regulations. If the public officer defaults on any of these duties, they are liable to the same penalties as the trustee.

Lodging a trust tax return

Irrespective of the amount of income derived, a trust tax return is lodged by the trustees resident in Australia or by any one of them if required by the Commissioner. A notice advising which entities are required to lodge income tax returns is published annually in the *Federal Register of Legislative Instruments* and is available at **www.frli.gov.au**

If no trustee is resident in Australia, the trust tax return is lodged by the public officer of the trust or, if a public officer does not need to be appointed, by an agent in Australia for the trustees.

However, a trust tax return is not required if the trust was a subsidiary member of a consolidated group for the full income year.

For children's saving accounts, see *Taxation Ruling IT 2486 – Income tax: children's savings accounts*.

For charitable trusts, see the *Income tax guide for non-profit organisations* (NAT 7967).

Keep a copy of the trust tax return and related documents, as there may be a charge for obtaining a copy from the Tax Office.

The addresses for lodging tax returns are listed on page 111.

The following are the ONLY schedules that are sent with the trust tax return:

- *Capital allowances schedule 2007*
- *Capital gains tax (CGT) schedule 2007*
- *Family trust election and/or family trust revocation 2007*
- *Interposed entity election 2007*
- *Losses schedule 2007*
- *Non-individual PAYG payment summary schedule 2007*
- *Personal services income schedule 2007*
- *Schedule 25A 2007*.

Some schedules, such as the thin capitalisation schedule, must be posted to a specific address.

Do **not** send other schedules or documents with your tax return unless instructed to attach them as 'other attachments'. Keep any other schedules or documents with the trust's tax records. Returns lodged without all the required schedules may not be considered to have been lodged in the approved form. Unless all schedules are lodged by the due date, a failure to lodge on time penalty may be applied.

Tax offsets

A beneficiary may be entitled to claim certain tax offsets, such as the tax offset for:

- dependent spouse (without dependent child or student)
- medical expenses
- private health insurance
- senior Australians
- pensioner.

For more information, see *TaxPack 2007* (NAT 0976–6.2007).

If a trustee is assessable on behalf of a beneficiary who is presently entitled but under a legal disability, the trustee may be entitled to tax offsets to which that beneficiary would be entitled. Include a statement showing the type and amounts of any claim for a tax offset, sign the statement and attach it to the trust tax return.

Print **YES** in the **Have you attached any 'other attachments'?** box at the top of page 1 of the tax return.

Private health insurance tax offset

If you are a trustee who is assessable on behalf of a beneficiary who is presently entitled but under a legal disability – see section 98 of the ITAA 1936 – and the beneficiary is entitled to a tax offset under the private health insurance rebate, you can claim the tax offset for this rebate up to the value of any tax payable. To do this, include a separate statement showing the details listed below, sign it and attach it to the trust tax return. Print **YES** in the **Have you attached any 'other attachments'?** box at the top of page 1 of the tax return. The details are:

- trust name
- trust TFN
- beneficiary's name
- beneficiary's TFN
- amount of tax offset claimed
- health fund membership number
- health fund identification (ID) code
- type of health cover provided.

If the value of the private health insurance tax offset exceeds the amount of tax payable, you cannot claim a refund of any of the excess. To claim these excess amounts, the beneficiary must lodge their own personal income tax return and make a claim for the full amount there.

Age-based percentage rebates apply to premiums paid for appropriate private health insurance cover provided on or after 1 April 2005. Details of the applicable private health insurance rebate level are on the annual Private Health Insurance Statement issued by the health fund to the member.

For more information on the private health insurance tax offset, see *TaxPack 2007*.

Special cases

All trusts lodge a trust tax return except corporate unit trusts and public trading trusts, which are taxed as companies and are therefore required to lodge a *Company tax return 2007*. These entities are defined below and must apply for a company TFN.

The trust loss provisions of Schedule 2F to the ITAA 1936 apply to corporate unit trusts and public trading trusts (even though they are taxed as companies), except where the corporate unit trust or public trading trust is participating in the consolidation regime for taxing wholly owned groups as a single income tax entity. For more information about the trust loss provisions, see appendix 8. For detailed information about the treatment of losses under consolidation, visit the consolidation page on our website.

Corporate unit trusts

A trust is a corporate unit trust for an income year if:

- it qualifies as a public unit trust
- under an arrangement, a business or property previously carried on or owned by a company is transferred to the unit trust and the shareholders of the company are entitled to take up units in the unit trust, and
- the trust is either a resident unit trust or was a corporate unit trust in a previous income year.

A public unit trust for this purpose is a trust whose units are listed on a stock exchange or offered to the public or held by 50 or more persons. A unit trust is not a public unit trust if 20 or fewer persons hold 75% or more of the beneficial interest of the income or the property of the trust.

A unit trust is a resident unit trust for an income year if, at any time during the income year:

- either:
  - any property of the unit trust was situated in Australia, or
  - the trustee of the unit trust carried on business in Australia, and
- either:
  - the central management and control of the unit trust was in Australia, or
  - one or more persons who were residents held more than 50% of the beneficial interests in the income or the property of the unit trust.

Public trading trusts

A trust is a public trading trust if:

- the trust is a public unit trust
- the trust is a trading trust
- either:
  - the trust is a resident unit trust – defined as above under corporate unit trust, or
  - the trust was a public trading trust in a previous income year, and
- the trust is not a corporate unit trust.

A public unit trust for this purpose is a trust whose units are listed on a stock exchange or offered to the public or held by 50 or more persons except where 20 or fewer persons hold 75% or more of the beneficial interests in the income or property of the trust.

In addition, a unit trust is a public unit trust if an entity exempt from tax, or a complying superannuation fund, complying approved deposit fund (ADF), or a pooled superannuation trust (PST) holds a beneficial interest in 20% or more of the property or income of the trust, or is paid or credited with 20% or more of the moneys paid by the trust to the unit holders, or an arrangement exists whereby the two situations just outlined could have been obtained.

A trading trust for this purpose is a trust that carries on a business that does not consist wholly of:

- investing in land for rental, or
- investing or trading in unsecured loans, securities, shares, units in a unit trust, futures contracts, forward contracts, interest rate swap contracts, currency swap contracts, forward exchange rate contracts, forward interest rate contracts, life insurance policies, or rights or options in any of these.

Annual investment income reporting

Managers of unit trusts that are investment bodies for the purposes of Part VA of the ITAA 1936 may be required under regulation 56 of the Income Tax Regulations 1936 to lodge an *Annual investment income report* if they made any distributions to unit holders during the year. The report requires details of distributions, including the amounts paid and the names of the payees. For more information, phone **1800 072 681**.

Payment arrangements

Paying your tax debt

Income tax debts must be paid by the due date.

You can make payments by one of five methods. These are explained on pages 111–112. For more information, phone **1800 815 886**.

If the trust tax return is lodged on time, any tax payable by the trustee is due on the later of:

- 21 days after the due date for lodgment of the tax return specified in the legislative instrument registered on the Federal Register of Legislative Instruments, or
- 21 days after receipt of the notice of assessment.

If the trust tax return is lodged late or not at all, any tax payable by the trustee is due 21 days after the due date for lodgment.

The general interest charge (GIC) accrues on outstanding amounts from the due date for payment. The rate used to calculate GIC is derived by adding 7 percentage points to the 90-day Bank Accepted Bill rate. The GIC rate is updated quarterly.

For more information on the GIC, phone the Business Infoline (see the inside back cover).

What if you cannot pay your tax debt by the due date?

If you cannot pay your tax debt by the due date, phone the Account Management Infoline (see the inside back cover) to avoid action being taken to recover the debt.

We expect you to organise your affairs to ensure that you can pay your debt on time. Nevertheless, we may allow you to pay your debt under a mutually agreed payment plan if you have genuine difficulty paying your debt on time but have the capacity to eventually pay the debt. The GIC will continue to accrue on any outstanding amounts of tax during any payment arrangement.

In some circumstances the trustee may need to provide details of the trust's financial position, including a statement of its assets and liabilities and details of income and expenditure. We will also want to know what steps the trustee has taken to obtain funds to pay its tax debt and the steps the trustee is taking to meet future tax debts on time.

PAGE 1 PARTNERSHIP TAX RETURN

ATTACHMENTS TO THE TAX RETURN P

Print **YES** in the **Have you attached any 'other attachments'?** box at the top of page 1 of the partnership tax return if the partnership has included additional information. These documents are attached to the tax return.

TAX FILE NUMBER (TFN)

Print the TFN of the partnership in the boxes provided.

NAME OF PARTNERSHIP

The partnership name should be consistent from year to year, except in the year of a name change.

If the partnership name is legally changed, advise the Tax Office in writing at the time the change is made.

AUSTRALIAN BUSINESS NUMBER (ABN)

The ABN is a single, unique business identifier used for all dealings with the Australian Government. It is also available to state, territory and local government regulatory bodies. Identification for taxation law purposes is only one of the objects of the ABN.

Print the ABN of the partnership in the boxes provided if the partnership is registered in the Australian Business Register.

Follow the instructions on the partnership tax return for the following items:

- **Previous name of the partnership**
- **Current postal address**
- **Postal address on previous tax return**.

Note: C/- is the preferred format for 'care of'.

FULL NAME OF THE PARTNER TO WHOM NOTICES SHOULD BE SENT

Show the surname or family name and given names of the partner to whom notices should be sent. If the partner is a company, show the name and the ABN of the company.

If the partner is a trustee of a trust, show the name of the trust and the trustee. If the trustee is a company show the name and ABN of the company.

INTERPOSED ENTITY ELECTION STATUS

This item must be completed if any of the following apply:

- the partners have previously made one or more interposed entity elections specifying a day in any income years from 1994–95 to 2005–06 in accordance with section 272-85 of Schedule 2F to the ITAA 1936 and, if applicable, items 23 or 23A of Schedule 1 to the *Taxation Laws Amendment (Trust Loss and Other Deductions) Act 1998* (Trust Loss Act); or

- the partners are making one or more interposed entity elections specifying a day in the 2004–05 or later income year in accordance with section 272-85 of Schedule 2F to the ITAA 1936.

> **NOTE**
> Under section 272-85 of schedule 2F to the ITAA 1936, the partners cannot make an interposed entity election specifying a year earlier than 2004–05 in the *Partnership tax return 2007*.

Instructions on how to complete the *Interposed entity election 2007* are on the form itself.

If the partnership tax return is not lodged using ELS, send the tax return including the *Interposed entity election 2007* to:

Australian Taxation Office
PO Box 9845
IN YOUR CAPITAL CITY

If the partners have previously made one or more elections specifying a day in an income year before the 2006–07 income year, write the earliest income year specified in the box at this item unless the partners are making one or more elections specifying a day in the 2004–05 or later income year.

If the partners have previously made one or more elections specifying a day in an income year before the 2004–05 income year and took advantage of the one-off opportunity in *Law Administration Practice Statement PS LA 2004/1 (GA) – Lodgment opportunity for family trust and interposed entity elections* to specify an earlier year, write the earliest income year specified unless the partners are making one or more elections specifying a day in the 2004–05 or later income year.

If the partners are making one or more interposed entity elections specifying a day in the 2004–05 or later income year, write the latest income year specified in the box at this item, and complete an *Interposed entity election 2007* for each election specifying a day in the 2004–05 or later income year.

EXAMPLE 1

The partners have previously made an interposed entity election specifying a day in the 1994–95 income year and are not making another interposed entity election.

Write **1995** in the box at this item. The partners do not need to complete an *Interposed entity election 2007*.

EXAMPLE 2

The partners have previously made an interposed entity election specifying a day in the 1996–97 income year and want to make another interposed entity election specifying a day in the 2006–07 income year.

Write **2007** in the box at this item. The partners must provide details in an *Interposed entity election 2007* of the election they are making specifying a day in the 2006–07 income year.

EXAMPLE 3

The partners have not previously made an interposed entity election. They now want to make an interposed entity election specifying a day in the 2004–05 income year.

Write **2005** in the box at this item. The partners must provide details in an *Interposed entity election 2007* of the election they are making specifying a day in the 2004–05 income year.

EXAMPLE 4

The partners have not previously made an interposed entity election. They now want to make an interposed entity election specifying a day in the 2006–07 income year.

Write **2007** in the box at this item. The partners must provide details in an *Interposed entity election 2007* of the election they are making specifying a day in the 2006–07 income year.

EXAMPLE 5

The partners have previously made an interposed entity election specifying a day in the 2002–03 income year. The partners took advantage of the one-off opportunity in PS LA 2004/1 (GA) by lodging a declaration requesting that the election apply from the 1997–98 income year.

Write **1998** in the box at this item. The partners do not need to complete an *Interposed entity election 2007*.

Family trust distribution tax

A consequence of a partnership making an interposed entity election is that under section 271-25 of Schedule 2F to the ITAA 1936 a special tax – family trust distribution tax (FTDT) – is payable at 46.5% by the partners on any conferral of present entitlement to, or distribution of, income or capital of the partnership to persons who are not members of the family group of the specified individual within the meaning of section 272-90 of Schedule 2F to the ITAA 1936.

For this purpose, a distribution of income or capital by a partnership has the meaning given in sections 272-55 and 272-60 of Schedule 2F to the ITAA 1936.

Pay FTDT by post, using a *Family trust distribution tax payment advice*.

Make cheques or money orders payable to the Deputy Commissioner of Taxation and print 'not negotiable' across the cheque. Tender all cheques in Australian dollars. Do not send cash by post. Payment addresses are listed on page 112.

TFN OF FORMER PARTNERSHIP

P

If this is the first tax return of a new partnership after a reconstitution, show the TFN of the former partnership in the box provided. For reconstituted partnerships where the dissolution of the partnership was only technical and the partnership business carried on as per GSTR 2003/13, write the retained TFN in the box provided, even though it is common to both the former and the reconstituted partnership – see **Reconstituted partnerships** on page 9.

FINAL TAX RETURN

If the partnership does not expect to lodge further tax returns, print **FINAL** in the box at this item.

Attach a statement to the partnership tax return showing:

- the reason further tax returns will not be lodged, and
- the manner of disposal of any assets of the partnership if not disclosed elsewhere on the tax return.

Print **YES** in the **Have you attached any 'other attachments'?** box at the top of page 1 of the tax return.

If it is the final tax return because the partnership has been reconstituted, also include in the statement the names of the partners in the new partnership and the trading name, if any, of the new partnership.

> **NOTE**
> If the partnership is a subsidiary member of a consolidated group, do not print **FINAL** if membership of the consolidated group is the only basis on which the partnership will not be required to lodge future returns.

PAGE 2 PARTNERSHIP TAX RETURN

DECLARATION

One of the partners must sign and date the declaration and all attached documents.

HOURS TAKEN TO PREPARE AND COMPLETE THIS TAX RETURN

We are committed to reducing the costs involved in complying with your taxation obligations. By completing this item you will help us to monitor these costs as closely as possible. Your response to this item is voluntary.

When completing this item consider the time, rounded up to the nearest hour, that your business spent:

- reading the instructions
- collecting the necessary information to complete this tax return
- making any necessary calculations
- actually completing this tax return or putting the tax affairs of your business in order, so that the information could be handed to your tax agent.

The answer should relate to the time the partners and tax agent spent in preparing and completing the tax return. This includes the time spent by any other person whose assistance was obtained in doing this – such as an employee.

> **TAX AGENTS**
> If you are preparing this tax return on behalf of your client, include your time and a reliable estimate of their time.

TAX AGENT'S DECLARATION

If the tax agent is a partnership or a company, this declaration is signed in the name of that partnership or company by a person who is registered as a nominee of that partnership or company. Print that person's name at this item also.

PAGE 1 TRUST TAX RETURN

ATTACHMENTS TO THE TAX RETURN

T

Print **YES** in the **Have you attached any 'other attachments'?** box at the top of page 1 of the Trust tax return if the trust has included additional information. These documents are attached to the tax return.

TAX FILE NUMBER (TFN)

Print the TFN of the trust in the boxes provided.

NAME OF TRUST

The trust name should be consistent from year to year, except in the year of a name change.

If the trust name is legally changed, send written advice of the change to the Tax Office at the time the change is made. Do **not** show particulars of trustees or administrators at this item.

AUSTRALIAN BUSINESS NUMBER (ABN)

The ABN is a single, unique business identifier used for all dealings with the Australian Government. It is also available to state, territory and local government regulatory bodies. Identification for taxation law purposes is only one of the objects of the ABN.

Print the ABN of the trust in the boxes provided if the trust is registered in the Australian Business Register.

Follow the instructions on the trust tax return for the following items:

- **Previous name of the trust**
- **Current postal address**
- **Postal address on previous tax return**.

FULL NAME OF THE TRUSTEE TO WHOM NOTICES SHOULD BE SENT

Show the surname or family name and given names of the trustee to whom notices should be sent. If the trustee is a company, show the name and ABN of the company.

If the trust comprises the property of a bankrupt and the estate is being administered by the Official Receiver, print **OFFICIAL TRUSTEE IN BANKRUPTCY** in the box provided for the company name. Leave the individual name box blank.

Daytime contact phone number

Print a phone number on which the trustee can be contacted during business hours.

FAMILY TRUST/INTERPOSED ENTITY ELECTION STATUS

This item must be completed if any of the following apply. The trustee of the trust:

- has previously made a family trust election specifying an income year from 1994–95 to 2005–06 in accordance with section 272-80 of Schedule 2F to the ITAA 1936 and, if applicable, items 22 or 22A of Schedule 1 to the Trust Loss Act, and that election has not been revoked in accordance with subsections 272-80(6) to (8) of Schedule 2F to the ITAA 1936 in an income year before the 2006–07 income year; or
- is making a family trust election specifying the 2004–05 or later income year in accordance with section 272-80 of Schedule 2F to the ITAA 1936; or
- has previously made one or more interposed entity elections specifying a day in any income year from 1994–95 to 2005–06 in accordance with section 272-85 of Schedule 2F to the ITAA 1936 and, if applicable, items 23 or 23A of Schedule 1 to the Trust Loss Act; or
- is making one or more interposed entity elections specifying a day in the 2004–05 or later income year in accordance with section 272-85 of Schedule 2F to the ITAA 1936; or
- is revoking from a time in the 2006–07 income year a previously made family trust election in accordance with sections 272-80(6) to (8) of Schedule 2F to the ITAA 1936.

Do **not** attach election forms for family trust and interposed entity elections made specifying an income year before the 2004–05 income year to the *Trust tax return 2007*.

> **NOTE**
> Under sections 272-80 and 272-85 of Schedule 2F to the ITAA 1936, a trustee cannot make a family trust election or an interposed entity election specifying a year earlier than 2004–05 in the *Trust tax return 2007*.

Instructions on how to complete the *Family trust election and/or family trust revocation 2007* and *Interposed entity election 2007* are on the forms themselves.

If the trust tax return is not lodged using ELS and elections are being lodged with the trust's 2007 tax return, send the tax return and the elections to:

Australian Taxation Office
GPO Box 9845
in your capital city

Family trust election status

If the trustees have previously made a family trust election specifying an income year before the 2006–07 income year, write the appropriate income year in the box at this item.

If the trustees have previously made a family trust election specifying an income year before the 2004–05 income year and took advantage of the one-off opportunity in PS LA 2004/1 (GA) to specify an earlier year, write the earlier income year specified.

If the trustees are making a family trust election specifying the 2004-05 or later income year, write the appropriate income year in the box at this item and complete a *Family trust election and/or family trust revocation 2007* specifying the 2004–05 or later income year.

If the trustees of the trust have not made or are not making a family trust election, do not compete this item.

Interposed entity election status

Write in the box at this item the income year specified that corresponds to the interposed entity election status of the trust. Write the income year that has been specified in the interposed entity election made by the trustees (if only one interposed entity election has been made) or the earliest income year which has been specified in all of the interposed entity elections made by the trustees (if more than one interposed entity election has been made) or the 2005 or later income year if an interposed entity election is being made specifying a day in the 2004–05 or later income year. If the trustees of the trust have not made or are not making any interposed entity elections, do not complete this item.

Revocation

A family trust election can only be revoked by a trust that was a fixed trust at the beginning of the specified income year and that satisfies all of the conditions in subsections 272-80(6) to (8) of Schedule 2F to the ITAA 1936.

Print code **R** in the box at this item if the family trust election made by the trust is being revoked from a time in the 2006–07 income year. A *Family trust election and/or family trust revocation 2007* must be completed and lodged with the current year tax return of the trust.

EXAMPLE 6

The trustee has previously made a family trust election specifying the 1994–95 income year and an interposed entity election specifying a day in the 1994–95 income year.

Write 1995 in the box at this item for the family trust election status and write 1995 in the box at this item for the interposed entity election status. The trustee does not need to complete a *Family trust election and/or family trust revocation 2007* or an *Interposed entity election 2007*.

EXAMPLE 7

The trustee previously made a family trust election specifying the 1996–97 income year and an interposed entity election specifying a day in the 1997–98 income year. The trustee makes another interposed entity election specifying a day in the 2006–07 income year.

Write **1997** in the box at this item for the Family trust election status and write **2007** in the box at this item for the Interposed entity election status. The trustee provides details in an *Interposed entity election 2007* of the election the trust is making specifying a day in the 2006–07 income year.

EXAMPLE 8

The trustee has not previously made a family trust election specifying an income year before the 2004–05 income year or an interposed entity election specifying a day in an income year before the 2004–05 income year. The trustee decides to make a family trust election specifying the 2004–05 income year and an interposed entity election specifying a day in the 2004–05 income year.

Write **2005** in the box at this item for the Family trust election status and write **2005** in the box at this item for the Interposed entity election status. The trustee provides details in a *Family trust election and/or family trust revocation 2007* of the election the trust is making.

EXAMPLE 9

The trustee has not previously made a family trust election specifying an income year before the 2005–06 income year or an interposed entity election specifying a day in an income year before the 2006–07 income year, but the trustee wants to make a family trust election specifying the 2006–07 income year and an interposed entity election specifying a day in the 2006–07 income year.

Write **2007** in the box at this item for the Family trust election status and write **2007** in the box at this item for the Interposed entity election status. The trustee provides details in a *Family trust election and/or family trust revocation 2007* of the election the trust is making specifying the 2006–07 income year and an *Interposed entity election 2007* of the election the trust is making specifying a day in the 2006–07 income year.

EXAMPLE 10

The trustee previously made a family trust election specifying the 1995–96 income year and is revoking the family trust election from a day in the 2006–07 income year in accordance with subsections 272-80(6) to (8) of Schedule 2F to the ITAA 1936 and has not made any interposed entity elections.

Write **1996** in the box at this item for the Family trust election status and print **R** in the box at this item if the trustee is revoking a family trust election. The *Family trust election and/or family trust revocation 2007* is completed and lodged with the Tax Office.

EXAMPLE 11

The trustee previously made a family trust election specifying the 2000–01 income year.

The trustee took advantage of the one-off opportunity in PS LA 2004/1 (GA) by lodging a declaration requesting that the election apply from the 1995–96 income year.

Write **1996** in the box at this item for the Family trust election status. The trustee does not need to complete a *Family trust election and/or family trust revocation 2007*.

Family trust distribution tax (FTDT)

A consequence of a trust making an interposed entity election or a family trust election is that under section 271-20 of Schedule 2F to the ITAA 1936 a special tax – family trust distribution tax (FTDT) – is payable at 46.5% by the trustee on any conferral of present entitlement to, or distribution of, income or capital of the trust to persons who are not members of the family group of the specified individual within the meaning of section 272-90 of Schedule 2F to the ITAA 1936. For this purpose, a distribution of income or capital by a trust has the meaning given in sections 272-45 and 272-60 of Schedule 2F to the ITAA 1936.

Pay FTDT by post, using a *Family trust distribution tax payment advice*.

Make cheques or money orders payable to the Deputy Commissioner of Taxation and print 'not negotiable' across the cheque. Tender all cheques in Australian dollars. Do not send cash by post. See **Payment** on page 112 for address details.

TYPE OF TRUST

Print in the first box at this item the code from **table 1** that best describes the type of trust for which the trust tax return is being lodged. Descriptions of the types of trust listed in **table 1** are at **table 2**.

TABLE 1

Code	Type
D	Deceased estate
F	Fixed trust – other than a fixed unit trust or public unit trust described in **U**, **P** or **Q**
H	Hybrid trust
S	Discretionary trust – where the main source of income of the trust is from service and/or management activities
T	Discretionary trust – where the main source of income of the trust is from trading activities
I	Discretionary trust – where the main source of income of the trust is from investment activities
M	Cash management unit trust
U	Fixed unit trust – other than a public unit trust described in **P** or **Q**
P	Public unit trust (listed) – other than a cash management unit trust
Q	Public unit trust (unlisted) – other than a cash management unit trust.

TABLE 2

Deceased estate See appendix 9.
Fixed trust A trust in which persons have fixed entitlements – as defined in section 272-5 of Schedule 2F to the ITAA 1936 – to all of the income and capital of the trust at all times during the income year.
Hybrid trust A trust which is not a fixed trust but in which persons have fixed entitlements – as defined in section 272-5 of Schedule 2F to the ITAA 1936 – to income or capital of the trust during the income year.
Discretionary trust A trust which is neither a fixed trust nor a hybrid trust and under which persons benefit from income or capital of the trust upon the exercise of discretion by persons, usually the trustee.
Fixed unit trust A fixed trust in which interest in the income and capital of the trust are represented by units.
Public unit trust A fixed unit trust which is a widely held unit trust – as defined in section 272-105 of Schedule 2F to the ITAA 1936 – at all times during the income year.
Public unit trust – listed A public unit trust in which any of its units were listed for quotation on the official list of a stock exchange in Australia or elsewhere during the income year.
Public unit trust – unlisted A public unit trust in which none of its units was listed for quotation on the official list of a stock exchange in Australia or elsewhere during the income year.

Charitable trust

If the trust is also an item 1.5 charitable trust in section 50-5 of the ITAA 1997, print **X** in the centre box at this item.

IS ANY TAX PAYABLE BY THE TRUSTEE?

The trustee is liable to pay tax:

- on net income to which no beneficiary is presently entitled – see **Is the beneficiary not presently entitled?** on page 65
- on behalf of a beneficiary who is presently entitled to a share of the net income of the trust but is not a resident at the end of the income year – see **Non-resident beneficiaries – additional information** on page 68
- on behalf of a beneficiary who is presently entitled to a share of the net income of the trust but is under a legal disability – see appendix 11.

If the beneficiary is not under a legal disability and is a resident at the end of the income year, the beneficiary – not the trustee – is taxed on the share of net income to which the beneficiary is presently entitled.

If the trustee is liable to pay any tax, print **Y** for yes in the box at this item even if payments have been made in advance. Otherwise print **N** for no.

The beneficiary and/or trustee pays tax on the net income of the trust. Net income means the total assessable income calculated as if the trustee was a resident taxpayer, less all allowable deductions, except deductions for net farm management deposits. (For more information, see appendix 11). In the case of any beneficiary with no beneficial interest in the trust corpus, past losses are required to be met out of corpus.

Request for a non-taxable advice

If the trustee is not assessed on income and a non-taxable advice is required, attach a request headed 'Request for a non-taxable advice' to the trust tax return. Include the trust name and TFN with the details, sign it and attach it to the tax return. Print **YES** in the **Have you attached any 'other attachments'?** box at the top of page 1 of the tax return.

FINAL TAX RETURN

If the trustee does not expect to lodge further tax returns, print **FINAL** in the box at this item.

Attach a statement headed 'Final trust tax return' to the trust tax return showing:

- the reason further tax returns will not be lodged, and
- the manner of disposal of any assets of the trust if not disclosed elsewhere on the tax return.

Print **YES** in the **Have you attached any 'other attachments'?** box at the top of page 1 of the tax return.

> **NOTE**
> If the trust is a subsidiary member of a consolidated group, do not print **FINAL** if membership of the consolidated group is the only basis on which the trust will not be required to lodge future returns.

PAGE 2 TRUST TAX RETURN

ELECTRONIC FUNDS TRANSFER (EFT)

Direct refund

We can deposit a tax refund due to a trustee directly into a bank, credit union or building society account of your choice using electronic funds transfer (EFT) – for example, a tax agent's account.

Take care when completing EFT details as payment of any refund is made to the account specified.

If direct refund is not required

If the trustee does not want to use EFT, or wishes to cancel the existing EFT authority, print **N** for no at **Do you want to use EFT for your refund this year?**

To use direct refund

Print **Y** for yes at **Do you want to use EFT for your refund this year?**

Complete the following:

- Print the bank state branch (BSB) number in the **BSB number** box. This six-digit number identifies the financial institution. Do not include spaces, dashes or hyphens in the number.
- Print the account number in the **Account number** box. You cannot use an account number with more than nine characters. Do not include spaces in the account number.
- Print the account name, as shown on the account records, in the **Account name** box. Do not print the account type – for example savings, cheque or mortgage offset. Include spaces between each word and between initials in the account name. Joint accounts are acceptable. The account name must not exceed 32 characters.

Direct debit

The trustee can pay tax owing directly from their account using EFT. A trustee can provide separate account details for direct debit and direct refund.

To use direct debit

Trustees can arrange direct debit by using a tax agent that can lodge returns through the electronic lodgment service (ELS), or by completing a direct debit request form, available from the Tax Office. Allow at least five working days for processing of the direct debit request form. Tax agents can transmit payment details up to three working days before the due date once the direct debit request has been processed. Phone **1800 802 308** for more information.

If the trustee used direct debit last year and the account details provided are correct you do not need to make another request. The notice of assessment will display a message that the tax debt will be debited from the nominated account on the due date.

If the account details have changed complete a direct debit request if you want to use direct debit this year.

A direct debit request remains in force until it is cancelled. Cancellations must be received three business days before the payment date.

NOTE

There is no provision for a direct debit election on the tax return. The direct debit request is available on our website. The direct debit request is also available as part of ELS software packages.

DECLARATION

The trustee or public officer must sign and date the declaration and all attached documents.

HOURS TAKEN TO PREPARE AND COMPLETE THIS TAX RETURN

We are committed to reducing the costs involved in complying with your taxation obligations. By completing this item you will help us to monitor these costs as closely as possible. Your response to this item is voluntary.

When completing this item consider the time, rounded up to the nearest hour, that your business spent:

- reading the instructions
- collecting the necessary information to complete this tax return
- making any necessary calculations
- actually completing this tax return or putting the tax affairs of your business in order so the information could be handed to your tax agent.

The answer should relate to the time both the trustee and tax agent spent in preparing and completing the tax return. This includes the time spent by any other person whose assistance was obtained in doing this, such as an employee.

TAX AGENTS

If you are preparing this tax return on behalf of your client, include your time and a reliable estimate of their time.

TAX AGENT'S DECLARATION

If the tax agent is a partnership or a company, this declaration is signed in the name of that partnership or company by a person who is registered as a nominee of that partnership or company. Print that person's name at this item also.

REMAINDER OF PARTNERSHIP TAX RETURN AND TRUST TAX RETURN

1 DESCRIPTION OF MAIN BUSINESS ACTIVITY

Describe as accurately as possible the business activity from which the partnership or trust derived the **most** gross income – for example, beef cattle breeding, vegetable growing, clothing manufacturing, confectionary wholesaling, domestic appliance retailing, investing in shares and stocks, investing in residential property. Do not use general descriptions such as farming, manufacturing, wholesaling, investing or trust.

Industry code

Show at **A** the appropriate industry code for the partnership's or trust's main business. The code can be obtained by using the *Business industry codes 2007* (NAT 1827–6.2007), available on our website.

Code the business activity as accurately as possible using the business industry codes in *Business industry codes 2007*. The industry code is made up of five digits. For example, if the industry is 'dairy cattle farming', the code on the tax return is shown as '**01600**'.

An incorrect code may result in clients not receiving a necessary service or material from the Tax Office, or could lead to incorrect targeting of audits. The industry code provided is also used to publish industry benchmarks in the *Taxation Statistics* publication, available on our website.

The industry coding regime used by the Tax Office is a modified version of the *Australian and New Zealand Standard Industrial Classification* (ANZSIC), produced jointly by the Australian Bureau of Statistics (ABS) and Statistics New Zealand.

2 STATUS OF BUSINESS

Print **X** at, **B1**, **B2**, or **B3** to show the appropriate description for the status of the business. If more than one selection applies, select the first applicable option. If none of the selections applies, leave **B1** to **B3** blank.

Consolidation status

Print **X** at **Z2** if the partnership or trust was a subsidiary member of a consolidated group at any time during the income year.

In this case the tax return is for the period during which the partnership or trust was not a subsidiary member of a consolidated group in the income year. If **Z2** is completed, the partnership or trust does not need to complete a thin capitalisation schedule, or Schedule 25A. Also, the trust does not need to complete a capital gains tax schedule.

3 SIMPLIFIED TAX SYSTEM (STS) ELECTIONS

The STS is an alternative method of determining taxable income for eligible taxpayers. Participation in the STS is optional.

Only complete this item if the partnership or trust is:
- electing to enter the STS and is eligible to do so
- continuing in the STS and is eligible to do so, or
- exiting from the STS.

If the partnership or trust wants to enter the STS and is eligible to do so, complete, **G**, **H** and **I**. If the partnership or trust wants to continue in the STS and is eligible to do so, complete **G**, **R** and **I**.

If the partnership or trust is exiting from the STS, it must complete **S** or **T**. See **Exiting from the STS** on page 22.

Do not complete this item if the partnership or trust:
- is not eligible to enter the STS, or
- is eligible but does not want to enter the STS.

Is the partnership or trust eligible to enter or continue in the STS?

The partnership or trust is eligible to be an STS taxpayer for an income year if:
- the partnership or trust carries on a business
- the partnership or trust has an 'STS average turnover' of less than $1 million. The STS average turnover includes the turnover of any entities that the partnership or trust is 'grouped with', and
- the partnership or trust, together with any entities that the partnership or trust is 'grouped with', has depreciating assets with a total adjustable value of less than $3 million at the end of the year.

> NOTE
>
> **Proposed changes to small business concessions**
>
> Proposed changes for the 2007–08 income year will make it easier to access a range of small business concessions, including the concessions contained in the current simplified tax system.
>
> The proposed changes include increasing the annual turnover threshold to $2 million and removing the $3 million depreciating asset test from the eligibility requirements. These proposed changes will operate for the 2007–08 and later income years.

Grouping rules

Special rules called the STS grouping rules will determine who the partnership or trust is 'grouped with'. These rules prevent larger businesses from structuring or restructuring their affairs to take advantage of the STS. For more information on the grouping rules see *Taxation Ruling TR 2002/6 – Income tax: simplified tax system: eligibility – grouping rules (*STS affiliate, control of non fixed trusts),* or phone the Business Infoline (see the inside back cover).

Eligibility tests

For the year of income, the partnership or trust must have satisfied all three eligibility tests listed below.

Test 1

Was the partnership or trust carrying on a business during the year?

If the partnership or trust carried on a business at any time during the year of income, it satisfies this test.

Test 2

Is the partnership's or trust's STS average turnover less than $1 million?

The STS average turnover for an income year is worked out either by looking back to actual turnover in previous years, or looking forward to estimated future turnover. Before working out the partnership's or trust's STS average turnover, you need to know its STS group turnover.

STS group turnover is the value of business supplies the partnership or trust makes in the ordinary course of its business and the value of business supplies any businesses the partnership or trust is grouped with makes in the ordinary course of their business. It does not include any business supplies made between the partnership or trust and businesses it is grouped with.

If the partnership or trust sells retail fuel (typically a service station operator), their STS group turnover for an income year is reduced by the value of business supplies that relate to the supply of retail fuel.

For more information on calculating STS average turnover, see *Taxation Ruling TR 2002/11 – Income tax: simplified tax system eligibility – STS average turnover*.

Look back method

Under the look back method, you generally calculate the STS average turnover using the average of the partnership's or trust's 'STS group turnovers' of any three years out of the previous four income years (excluding the current year). If the partnership or trust has been in business for less than three years, calculate the partnership's or trust's STS average turnover for the number of years it has been in business (excluding the current year).

If the partnership's or trust's business has operated for only part of any of those years, use a reasonable estimate of what the partnership's or trust's turnover for the year would have been if it were in business for the full year.

Use the following table to assist you with the calculation.

TABLE 6

Income year	STS group turnover
2002–03	$
2003–04	$
2004–05	$
2005–06	$

Cross out the largest turnover amount if the partnership or trust has been in business for each of the four income years.	
Total of the three* years	$
	Divide by 3*.
STS average turnover	$
* or the number of years the partnership or trust has been in business if less than three years	

If the STS average turnover is less than $1 million, the partnership or trust satisfies this test and needs to consider test 3. Otherwise read on.

Look forward method

Under the look forward method, calculate the STS average turnover using a reasonable estimate of STS group turnovers for the current year and the two following years (ignoring any of those years for which the partnership or trust does not expect to be carrying on a business at any time in that year). Alternatively, you can use the partnership's or trust's actual STS group turnover for the current year and a reasonable estimate of its STS group turnover for each of the following two income years (ignoring any of those years for which the partnership or trust does not expect to be carrying on a business at any time in that year).

If the partnership or trust (or a grouped entity) has been in business for only part of the current year, it must use a reasonable estimate of what the turnover for this year would have been if it was in business for the full year.

Use the following table to assist you with the calculation.

TABLE 7

Income year	STS group turnover
2006–07	$
2007–08	$
2008–09	$
Total	$
	Divide by 3*.
STS average turnover	$
* or the number of relevant years if less than three years (see above)	

If the partnership's or trust's STS average turnover is less than $1 million it satisfies this test.

Test 3

Did the partnership or trust and any businesses it is grouped with have depreciating assets with a total adjustable value of less than $3 million at 30 June 2007?

Broadly, the adjustable value of a depreciating asset is its cost less its decline in value since it was first used, or installed ready for use, for any purpose whether business or private. It is the value at the end of the year of income that is relevant.

If the total adjustable value of the partnership's or trust's depreciating assets and those of entities it was grouped with for the income year ended 30 June 2007, was less than $3 million at this time, the partnership or trust satisfies this test.

Did the partnership or trust satisfy all three eligibility tests?

If the partnership or trust did not satisfy all three eligibility tests, it is not eligible to enter the STS. Leave **G**, **H**, **R** and **I** blank.

Entering the STS

If the partnership or trust does satisfy all three eligibility tests and wants to enter the STS, complete **G**, **H**, and **I**.

Print **Y** for yes at **G** and **H**.

Print **Y** for yes at **I** if the partnership or trust is grouped with another entity for any year relevant to the calculation of STS average turnover; otherwise print **N** for no at **I**.

Continuing in the STS

If the partnership or trust does satisfy all three eligibility tests and wants to continue in the STS, complete **G**, **R** and **I**.

Print **Y** for yes at **G** and **R**.

Print **Y** for yes at **I** if the partnership or trust is grouped with another entity for any year relevant to the calculation of STS average turnover; otherwise print **N** for no at **I**.

Exiting from the STS

If the partnership or trust does satisfy all three eligibility tests but wants to exit from the STS, complete **S**. Print **Y** for yes at **S**. Leave all other labels at item **3** blank.

If the partnership or trust does not satisfy all three eligibility tests it must exit from the STS and must complete **T**. Print **Y** for yes at **T**. Leave all other labels at item **3** blank.

If the partnership or trust chooses to leave the STS, it cannot re-enter the STS again until at least five years after the income year for which it was last an STS taxpayer.

> NOTE
>
> Under transitional arrangements, if you chose to exit the STS for an income year beginning before 1 July 2005, you will be able to re-enter the STS during the period of five years starting on 1 July 2005 (if you are eligible) without having to wait five years.

4 DID YOU SELL ANY GOODS OR SERVICES USING THE INTERNET?

Print **Y** for yes at **Q** if, in deriving income, you used the internet to:

- receive orders for goods and/or services – for example, you received orders by email or a web page form rather than by conventional post, phone or facsimile
- receive payment for goods and/or services – for example, you received:
  - credit card or charge card details by email or web page form rather than by conventional post, phone or facsimile
  - digital cash
- deliver goods and/or services – for example, you:
  - used email, the world wide web (www) or file transfer protocol (FTP) to deliver digitised music, news articles or software rather than conventional post to deliver software on a disc
  - used email, in conjunction with a website, to give advice and received a payment in connection with this advice
  - advertised goods or services of other businesses for a fee on the internet
  - hosted websites, or
  - provided access to the internet.

Print **N** for no at **Q**, if you only used the internet to:

- advertise your goods or services
- give support to your customers
- buy your stock
- do your banking online.

INCOME EXCLUDING FOREIGN INCOME

5 BUSINESS INCOME AND EXPENSES

The amounts included in business income – **C** to **G** and **D** to **H** – and expenses – **P** to **N** – are accounting system amounts subject to two exceptions for STS taxpayers.

STS taxpayers should use tax values for their closing stock in calculating their cost of sales shown at **E**, and for their depreciation expenses at **K**.

The accounting system amounts are shown or included on the business profit and loss statements and form the basis of the calculation of the business net profit or loss. Make adjustments to these accounting amounts for tax purposes at **Reconciliation items**.

GST is payable by entities that are registered, or required to be registered, for GST. If GST is payable on income, exclude the GST from the income derived. Exclude input tax credit entitlements on outgoings from deductions. Some GST adjustments – occurring, for example, where the percentage of business use of an asset changes – may be included in assessable income or allowed as deductions.

Only include at item **5**:

- business income amounts derived directly by the partnership or trust. Include distributions received from other partnerships and trusts at item **8 Partnerships and trusts**.
- Australian sourced income. Include foreign source income at:
  - item **19 Attributed foreign income**, and/or
  - item **20 Other assessable foreign source income**.

Income and expenses are divided into three columns:

- primary production – showing relevant amounts of income and expenses from primary production
- non-primary production – showing relevant amounts of income and expenses from non-primary production
- totals – showing the total of the previous two columns.

> **NOTE**
> Income subject to foreign resident withholding is only shown at **B** in the **Non-primary production** column and the **Totals** column.

If the partnership or trust is eligible to enter or continue in the STS and has chosen to do so at item **3**, read on. Otherwise see the information for **All partnerships and trusts (including STS)** on page 24.

STS taxpayers

When the STS began on 1 July 2001, STS taxpayers were required to account for most business income only when it was received and most business expenses only when they were paid. This is referred to as the STS accounting method.

From the first income year starting on or after 1 July 2005, STS taxpayers are no longer required to use the STS accounting method. STS businesses can now calculate their taxable income using the method that is the most appropriate for their circumstances.

> **NOTE**
> A partnership or trust that was an STS taxpayer in the income year that started immediately prior to 1 July 2005 can, while it continues to be an STS taxpayer (from the first income year that starts on or after 1 July 2005), choose to continue using the STS accounting method.

If the partnership or trust chooses not to continue using the STS accounting method, it will be able to calculate its taxable income using either of the following methods, whichever is the most appropriate for its circumstances:

- the accruals (earnings) method, that is, recognising ordinary income when it is derived and general deductions when they are incurred, or
- the cash (receipts) method, that is, recognising ordinary income when it is received and general deductions when they are paid or, alternatively, incurred.

Where the partnership or trust chooses not to continue using the STS accounting method, business income and expenses that have not been accounted for (because they have not been received or paid) will be accounted for in the year the business changes to the new accounting method.

The STS accounting method recognises most income only when received. This type of income is called ordinary income – for example, sales of goods and/or services, professional fees and commissions.

If the partnership or trust is registered or required to be registered for GST, exclude GST payable from income amounts.

An STS taxpayer that is continuing to use the STS accounting method can claim deductions for the following expenses only when they are paid:

- general deductions – for example, stock purchases, wages and rent of business premises
- tax-related expenses, and
- expenses for repairs.

If the partnership or trust is registered or required to be registered for GST, exclude input tax credit entitlements from deductions.

The STS accounting method does not apply to income or deductions that receive specific treatment in the income tax law – for example, net capital gains, dividends, depreciation expenses, bad debts and borrowing expenses.

In addition, if another provision of the income tax law apportions or alters the assessability or deductibility of a particular type of ordinary income or general deduction, the timing rule in the specific provision overrides the received or paid rule for STS taxpayers using the STS accounting method – for example, double wool clips or prepayment of a business expense for a period greater than 12 months. Because of these specific provisions you may need to make adjustments at **Reconciliation items**.

For more information about the STS accounting method, visit our website or phone the Business Infoline (see the inside back cover).

Accordingly, base the amounts at **Reconciliation items** item **5** on the STS accounting method where applicable. If the partnership's or trust's profit and loss statement does not reflect the STS accounting rules, you may need to make additional adjustments at **Reconciliation items** in order to show the correct amounts for **Net income or loss from business**. For more information about these adjustments, see **Reconciliation items** on page 32.

In addition to the STS accounting method there are also specific STS depreciation and trading stock rules. For more information on the calculation of STS depreciation, see **Depreciation expenses** on page 28, and for information on closing stock see **38 Closing stock** on page 55.

INCOME

All partnerships and trusts (including STS)

Gross payments where ABN not quoted

Show at **C** and/or **D** gross income received by the partnership or trust that was subject to withholding where an ABN was not quoted. This includes amounts of tax withheld.

If an amount is shown at **C** and/or **D**, complete a *Non-individual PAYG payment summary schedule 2007* and attach the completed schedule to the partnership or trust tax return. For instructions on completing this schedule see **Non-individual PAYG payment summary schedule** on page 3.

If **C** and/or **D** are completed, show the corresponding amount of tax withheld at **T** **Tax withheld where ABN not quoted** item **6**.

Gross payments subject to foreign resident withholding

Show at **B** gross payments to the partnership or trust that were regulated foreign resident income. Gross payments include amounts withheld.

Regulated foreign resident income refers to payments which are prescribed in the Tax Administration Regulations 1976 as being subject to the foreign resident withholding measure.

Do not include payments where the amount was varied to nil under the foreign resident withholding measure because the income was not taxable under a double tax agreement.

If an amount is shown at **B**, complete a *Non-individual PAYG payment summary schedule 2007* and attach the completed schedule to the partnership or trust tax return. For instructions on completing this schedule, see **Non-individual PAYG payment summary schedule** on page 3.

> **NOTE**
> Show gross distributions of foreign resident regulated income from other partnerships and/or trusts at item **8**. A *Non-individual PAYG payment summary schedule 2007* is not required for these distributions because they do not have an associated payment summary.

> **NOTE**
> You will not have any primary production amounts at this item. Leave **A** blank.

Assessable government industry payments

Generally, government grants, rebates, bounties and subsidies are assessable income in the hands of the recipient if they are received in, or in relation to, the carrying on of a business. This generally includes amounts of a capital nature. However, amounts relating to the commencement or cessation of a business may not be assessable.

Show at **E** and/or **F** the total amount of assessable government industry assistance. Examples are:

- bounties
- cleaner fuel grant
- employee subsidies
- export incentives grants
- fuel grant under the energy grants credits scheme
- fuel tax credits
- industry restructure and adjustment payments
- product stewardship (oil) benefit
- producer rebate (wine equalisation tax).

If the amount at **E** and/or **F** includes fuel tax credit or a fuel grant under the energy grants credits scheme, cleaner fuel grant, fuel sales grant or a product stewardship (oil) benefit, print **D** in the CODE box at the right of the amount.

> **NOTE**
> Medical practices should show their Medicare payments at **H Other business income**, not at **F Assessable government industry payments**.

Other business income

Show at **G** and/or **H** other business income such as revenue arising from the sale of goods, services rendered, disposal of depreciated assets, work in progress amounts assessable under section 15-50 of the ITAA 1997 and royalties.

Do not include amounts that are shown at **C**, **D**, **B**, **E** and **F**.

If the amount at **G** and/or **H** is a loss, print **L** in the box at the right of the amount.

If you have included an amount for profit on the sale of depreciating assets at **G** and/or **H**, see appendix 6.

EXPENSES

Apart from two exceptions for STS taxpayers, the amounts shown at **Expenses**, **P** to **N** item **5** are amounts derived from the accounting system or financial statements of the partnership or trust. Make any adjustments to these amounts for tax purposes at **Reconciliation items**, **B Expense reconciliation adjustments**.

STS taxpayers should use tax values for their closing stock in calculating their cost of sales to be shown at **E**, and for their depreciation expenses at **K**.

If the partnership or trust is registered or required to be registered for GST, exclude input tax credit entitlements on outgoings from deductions.

If any expenses have been prepaid, the prepayment provisions may affect the timing of the deduction that can be claimed. Generally, the partnership or trust will need to apportion its deduction for prepaid business expenditure over the service period or 10 years, whichever is less. There are some exceptions to this under the 12-month rule for STS taxpayers and the special rules relating to plantation forestry managed agreements. If the amounts shown under any expense label at item **5** differ from the amount allowable as deductions in the 2006–07 income year, make a reconciliation adjustment at **Reconciliation items**, **B Expense reconciliation adjustments**. For more information, see *Deductions for prepaid expenses 2007* (NAT 4170–6.2007).

Foreign resident withholding expenses

Show at **P** all expenses directly relating to gaining the income shown at **B Gross payments subject to foreign resident withholding** item **5**. These amounts should not be shown at any other expenses label in item **5**. Do not include any expenses that were incurred in gaining income that is not assessable in Australia.

> **NOTE**
> You will not have any primary production amounts at this item.

Contractor, subcontractor and commission expenses

Show at **C** the expenditure incurred for labour and services provided under contract other than those in the nature of salaries and wages. For example:

- payments to self-employed people such as consultants and contractors
- commissions paid to people not receiving a retainer
- agency fees – for example, advertising
- service fees – for example, plant service
- management fees
- consultant fees.

Do not include the following at **C**:

- expenses for external labour which are incorporated into the amount shown at **Expenses**, **E Cost of sales**
- expenses for accounting or legal services. Show these at **Expenses**, **N All other expenses**.

Record keeping

Keep a record of the following:

- name and address of the payee
- nature of the services provided
- the amount paid.

Superannuation expenses

Show at **D** the employee superannuation expenses incurred for the income year.

Employers are entitled to a deduction for contributions made to a complying superannuation, provident, benefit or retirement fund, or retirement savings account (RSA), where the contribution is to provide superannuation benefits for eligible employees or to provide benefits to the employee's dependants on the employee's death.

Superannuation benefits mean individual personal benefits, pensions or retiring allowances.

You can claim a deduction in the income year in which the contributions are made.

Contributions made to a non-complying fund:

- are not allowable as a deduction
- do not count towards superannuation guarantee obligations. Under the superannuation guarantee an employer needs to provide a minimum level of superannuation for eligible employees or pay a tax called the 'superannuation guarantee charge' to the Commissioner.

> **NOTE**
> The superannuation guarantee charge is not a superannuation contribution and is not tax deductible.
>
> Any late contribution that is used to reduce the amount of superannuation guarantee charge employers have to pay under the superannuation guarantee late payment measures is also not tax deductible.

Contributions paid by an employer for eligible employees to a non-complying superannuation fund are fringe benefits – other than where the contributions are made for an exempt visitor – and may be subject to tax under the *Fringe Benefits Tax Assessment Act 1986*.

The amount of contributions that can be claimed as a deduction by an employer contributing to a resident complying superannuation fund or RSA in respect of eligible employees is based on the age of each relevant employee.

If an employee has reached the age of 70, there is a further restriction on the deduction that can be claimed for an employer contribution to a complying superannuation fund or RSA.

For the 2006–07 income year the age-based limits are as follows:

TABLE 8 AGE-BASED LIMITS

Age in years	Deduction limit
under 35	$15,260
35 to 49	$42,385
50 and over*	$105,113*

* For contributions made after the 28th day of the month following the employee's 70th birthday, the deduction claimable is limited to the amount of the contribution required:

- under a federal, state or territory award, or
- to meet the employer's superannuation guarantee obligation on salary or wages paid to the employee before the employee's 70th birthday.

The employee's age limit is determined at the end of the day on which the last contribution for the income year was made by the employer or an associate of the employer for the benefit of the employee.

Cost of sales

STS taxpayers

If the partnership or trust is eligible to enter or continue in the STS and has chosen to do so at item **3**, it will need to know the value of its closing stock in order to calculate cost of sales. STS taxpayers only need to account for changes in the value of their trading stock in limited circumstances. These are explained on page 55. If the partnership or trust does not need to account for the change in value of closing stock, its closing stock will equal its opening stock value. If the partnership or trust does need to account for the change in value of closing stock, or chooses to do so, see **38 Closing stock** on page 55 for information about how to calculate the closing stock value.

For further information on cost of sales, read on.

All partnerships and trusts (including STS)

Show at **E** the cost of anything produced, manufactured, acquired or purchased for manufacture, sale or exchange in deriving the gross proceeds or earnings of the business. This includes freight inwards and may include some external labour costs – if these are recorded in the cost of sales account in the normal accounting procedure of the business.

If the cost of sales account is in credit at the end of the income year – that is, a negative expense – print **L** in the box at the right of the amount. Do not print brackets around the amount.

For more information on the circumstances in which packaging items held by a manufacturer, wholesaler or retailer are 'trading stock' as defined in section 70-10 of the ITAA 1997, see *Taxation Ruling TR 98/7 – Income tax: whether packaging items (ie containers, labels, etc) held by a manufacturer, wholesaler or retailer are trading stock*.

Bad debts

Show at **F** the bad debts expense incurred for the income year.

- Show recovery of bad debts at **G** and/or **H** **Other business income** item **5**.
- You cannot claim a deduction for bad debts unless the debt which is bad has previously been included in assessable income, or is for money lent in the ordinary course of the business of the lending of money by a partnership or trust carrying on that business.
- **T** Under the trust loss provisions of Schedule 2F to the ITAA 1936, rules effective from 20 August 1996 have to be satisfied by a trust before the trustee can deduct bad debts or debt/equity swap amounts. For more information about the trust loss provisions see appendix 8.
- Do not include accounting provisions for doubtful debts at **F**. Show these at **Expenses**, **N** **All other expenses** then add them back at **Reconciliation items**, **B** **Expense reconciliation adjustments**. To calculate the amount of the expense reconciliation adjustment see worksheet 1 on pages 71–72.
- Before a bad debt can be claimed, it must be bad and not merely doubtful. The deduction depends upon the facts in each case and, where applicable, the action taken for recovery. For more information, see *Taxation Ruling TR 92/18 – Income tax: bad debts*.

You can claim a deduction for partial debt write-offs where only part of a debt is bad and is written off. You can claim a deduction for the amount written off.

Deductions for bad debts may also be reduced by the commercial debt forgiveness provisions – see appendix 4.

You can also claim a deduction for losses incurred in debt-for-equity swaps for debt written off after 26 February 1992. You may be able to claim a deduction for a debt-for-equity swap by the partnership or trust, if the provisions of sections 63E to 63F of the ITAA 1936 are satisfied. Under these provisions a deduction may be allowable for the difference between the amount of the debt extinguished and the greater of the market value of the equity or the value at which the equity is recorded in the creditor's books at the time of issue. The market value of the equity is the price quoted on the stock exchange or, if the equity is not listed, the net asset backing of the equity.

If the partnership or trust is NOT in the business of lending money, the deduction is limited to the amount of the debt that has been included in assessable income.

Record keeping

If the partnership or trust writes off bad debts during the income year, keep a statement for all debtors in respect of which a write-off occurred showing:

- their name and address
- the amount of the debt
- the reason why the debt is regarded as bad, and
- the year that the amount was returned as income.

Lease expenses

Show at **G** the expenditure incurred through both finance and operating leases on leasing assets, such as motor vehicles, plant or other equipment. Do not include the cost of leasing real estate or capital expenditure incurred to terminate a lease or licence.

Although capital expenditure to terminate a lease or licence is not deductible in one year a five-year straight-line write-off may be allowable (see section 25-110 of the ITAA 1997) for certain capital expenditure incurred to terminate a lease or licence if the expenditure is incurred in the course of carrying on a business, or in connection with ceasing to carry on a business. See worksheet 1 on pages 71–72.

Expenses incurred under a hire purchase or instalment sale agreement of goods, are not lease expenses. Such expenses are referred to in appendix 6.

In some circumstances lease expenses may be debt deductions for the purposes of the thin capitalisation rules. For information on thin capitalisation, see appendix 3.

If an amount of lease expense is not allowable as a deduction, such as amounts disallowed under the thin capitalisation rules, add back the amount at **Reconciliation items**, **B** **Expense reconciliation adjustments**.

Record keeping

If a deduction is claimed for the cost of leasing depreciating assets, keep a record of the following:

- a description of the items leased
- full particulars of the lease expenses for each item, including motor vehicles, showing:
  - to whom the payments were made
  - the terms of the payments including details of any prepayments or deferred payments
  - if any assignment, defeasance or re-direction to pay the payments was entered into, full particulars of the arrangement including to whom the payments were made
- details of use other than for producing assessable income, and
- any documentation on or relating to the lease of the items.

Rent expenses

Show at **H** the expenditure incurred as a tenant for the rental of land and buildings used in the production of income.

Total interest expenses

Show at **I** the interest incurred on money borrowed within Australia and overseas to acquire income-producing assets, to finance business operations or to meet current business expenses.

Do not include interest expenses claimable against rental income. These expenses are shown at **G** **Interest deductions** item **9 Rent**.

> **NOTE**
>
> - An amount of tax – withholding tax – is generally withheld from interest paid or payable to non-residents and to overseas branches of residents. You must remit this to the Tax Office.
> - The thin capitalisation rules may apply to reduce interest deductions. These rules place a limit on the amount of interest and other loan costs that can be deducted for Australian tax purposes. For more information, see appendix 3. Include the disallowed amount at **Reconciliation items**, **B Expense reconciliation adjustments**.
> - T Distributions from a non-share equity interest are not deductible.
> - You may not be able to claim interest in certain situations – for example, if it has been incurred for private or domestic purposes.

Show the amount of interest not allowable at **Reconciliation items**, **B Expense reconciliation adjustments**.

Record keeping

If interest is paid to non-residents or to overseas branches of residents, keep a record of the following:

- name and address of recipient
- amount of interest paid or credited
- amount of withholding tax withheld and the date on which it was remitted to the Tax Office.

Total royalty expenses

Show at **J** the royalty expenses for the income year. Include royalties paid to residents and non-residents.

An amount of tax – withholding tax – is generally withheld from royalties paid or payable to non-residents and to overseas branches of residents. You must remit this to the Tax Office. For more information, phone the Business Infoline (see the inside back cover).

Record keeping

Keep a record of the following:

- name and address of recipients
- amounts paid or credited
- nature of the benefit derived – for example, a copy of the royalty agreement
- details of tax withheld where applicable and the date on which it was remitted to the Tax Office.

For more information, see appendix 2.

Depreciation expenses

If the partnership or trust is eligible to enter or continue in the STS and has chosen to do so at item **3**, see STS taxpayers on page 29. Otherwise see the information for non-STS taxpayers below.

Non-STS taxpayers

Show at **K** the book depreciation expenses for depreciating assets, other than for those assets allocated in a prior year to a general STS pool or a long life STS pool. For assets allocated to such a pool include at this label the amount of the pool deduction to be claimed for tax purposes. For information about STS depreciation deductions, see page 29.

The amount at **K** does not include:

- profit on the sale of a depreciating asset – shown at **G** and/or **H Other business income**
- loss on the sale of a depreciating asset – shown at **N All other expenses**.

The accounting or book depreciation may differ from the deduction for the decline in value of depreciating assets. Reconcile the deduction for the decline in value of depreciating assets with accounting depreciation at **Reconciliation items**, **B Expense reconciliation adjustments**.

For more information about deductions for the decline in value of depreciating assets, see appendix 6.

> **NOTE**
>
> If there is an amount greater than $15,000 at **K** complete and attach a *Capital allowances schedule 2007* unless the partnership or trust:
>
> - is eligible to enter or continue in the STS and has chosen to do so at item **3**, or
> - is exiting from the STS at item **3** or has previously exited from the STS, and the amount at **K** relates entirely to STS depreciating assets.
>
> For more information, see the *Capital allowances schedule instructions 2007*.

If the partnership or trust is exiting the STS or has previously exited the STS, and is continuing to claim a deduction in respect of any prior STS pool at **K Depreciation expenses**, you will also need to print in the CODE box at **K** the appropriate code from the following table.

TABLE 9

Code	Type of depreciation expense
S	The amount at **K** relates entirely to STS depreciating assets. Do not complete a *Capital allowances schedule 2007*.
M	The amount at **K** relates to both STS depreciating assets and to uniform capital allowance (UCA) items. You will need to complete and attach a *Capital allowances schedule 2007* if the total amount at **K** exceeds $15,000.

In all other cases leave the CODE box blank.

> **SIMPLIFYING TAX OBLIGATIONS FOR BUSINESS**
>
> Our *Law Administration Practice Statement PS LA 2003/8 – Taxation treatment of expenditure on low cost items for taxpayers carrying on a business* provides guidance on two straightforward methods which can be used by taxpayers carrying on a business to help determine whether expenditure incurred to acquire certain low-cost items is to be treated as revenue or capital.
>
> Subject to certain qualifications, the two methods cover expenditure below a threshold and the use of statistical sampling to estimate total revenue expenditure on low-cost items. The threshold rule allows an immediate deduction for qualifying low-cost business items costing $100 or less. The sampling rule allows taxpayers with a low-value pool to use statistical sampling to determine the proportion of the total purchases on qualifying low-cost business items that are revenue expenditure.
>
> A deduction for expenditure incurred on low-cost assets calculated in accordance with this Practice Statement will be accepted by tax officers.

STS taxpayers

Show at **K** the total depreciation deductions being claimed by the partnership or trust under the STS capital allowances (depreciation) rules and the uniform capital allowances (UCA) rules. You do **not** need to complete a capital allowances schedule.

STS taxpayers can claim an immediate deduction for most depreciating assets costing less than $1,000 (excluding input tax credit entitlements) and pool most of their other depreciating assets. There are two STS pools:

- a general STS pool for depreciating assets with an effective life of less than 25 years, and
- a long life STS pool for depreciating assets with an effective life of 25 years or more.

Some depreciating assets are excluded from the STS rules but you may be able to claim a deduction under the UCA rules. For example, horticultural plants including grapevines are excluded from the STS rules and are deducted under special UCA provisions – see appendix 6.

Assets that are leased out, or will be leased out, by an STS taxpayer for more than 50% of the time on a depreciating asset lease are specifically excluded from the STS depreciation rules. You can generally claim a deduction under the UCA provisions.

This exclusion does not apply to depreciating assets a taxpayer leases out under a hire purchase agreement or a short-term hire agreement.

For certain depreciating assets used by an STS taxpayer in the course of carrying on a business of primary production, a taxpayer can choose whether to use the STS provisions or specific UCA provisions. The specific UCA provisions are those applying to landcare operations, water facilities, electricity connections and telephone lines. For more information on these specific UCA provisions, see appendix 6.

As the STS depreciation rules apply only to depreciating assets, certain capital expenditure incurred by an STS taxpayer which does not form part of the cost of a depreciating asset may be deducted under the UCA provisions for deducting capital expenditure. This includes capital expenditure on certain business-related costs and amounts directly connected with a project. Do not include these amounts at **K**. Show the amount that can be claimed as a deduction at **Reconciliation items**, **B Expense reconciliation adjustments**. For more information, see appendix 6.

For more information about the STS depreciation rules, see *The simplified tax system – a guide for tax agents and small businesses* (NAT 6459), visit our website or phone the Business Infoline (see the inside back cover).

Calculating depreciation deductions

Only use steps 1 to 5 to calculate the depreciation deductions if the partnership or trust is eligible to enter or continue in the STS and has chosen to do so at item **3**.

If the profit and loss statement of the partnership or trust provides the amounts to complete **table 11** on page 31, write these amounts in the table. Otherwise, use steps 1 to 5 starting below to calculate the depreciation deductions.

The amounts you write in the table must be tax and not accounting values.

TABLE 10 EXPLANATION OF TERMS

Depreciating asset is an asset with a limited effective life which declines in value over that life.

Decline in value (previously 'depreciation') is the value that an asset loses over its effective life.

Adjustable value of a depreciating asset is its cost (excluding input tax credit entitlements) less its decline in value since you first used it or installed it ready for use for any purpose, including a private purpose.

Taxable purpose includes the purpose of producing assessable income.

Taxable purpose proportion is the extent to which you use the asset for a taxable purpose, such as for the purpose of producing assessable income.

Termination value includes money received from the sale of an asset or insurance money received as the result of the loss or destruction of an asset. Exclude the GST component where the amount received is for a taxable supply.

Assessable balancing adjustment amount arises where the termination value of the depreciating asset is more than the adjustable value.

Deductible balancing adjustment amount arises where the termination value of the depreciating asset is less than the adjustable value.

Cost addition amounts include the costs of capital improvements to assets and costs reasonably attributable to disposing of or permanently ceasing to use an asset (this may include advertising and commission costs or the costs of demolishing the asset).

Step 1
Low-cost assets

For each depreciating asset:

- which the partnership or trust started to hold this income year and used (or installed ready for use) for a taxable purpose such as for producing assessable income
- whose cost at the end of this year is less than $1,000 (excluding input tax credit entitlements), and
- which qualifies for a deduction under the STS depreciation rules

work out the extent it is used for the purpose of producing assessable income (taxable purpose proportion). Calculate the deduction for each eligible asset as follows:

asset's adjustable value × its taxable purpose proportion

The adjustable value of an asset is its cost less its decline in value since it was first used (or installed ready for use) for any purpose, whether business or private. The adjustable value of an asset, at the time it was first used (or installed ready for use) for a taxable purpose, will be its cost unless the asset was previously used (or installed ready for use) by the partnership or trust solely for private purposes. For example, for a tool set bought on 1 December at a cost of $800 (excluding input tax credit entitlements) and used for producing assessable income from that date at an estimated 70% of the time, the immediate deduction would be $800 x 70% = $560.

Add up these results and write the total at (a) in **table 11**.

Do **not** include in this calculation amounts for depreciating assets the partnership or trust started to hold prior to entering the STS and that cost less than $1,000. Allocate these assets to an STS pool (see step 2).

Step 2
STS pool deductions

To calculate the deductions for both the general and long life STS pools you must first calculate the opening pool balance of each pool.

For a partnership or trust that is continuing in the STS, the opening pool balance of each STS pool is the closing pool balance for the 2005–06 income year except where an adjustment is made to reflect the changed business use of a pooled asset.

For a partnership or trust that is entering the STS, allocate each depreciating asset the partnership or trust holds at the start of the income year to the appropriate pool according to the asset's effective life. Only include the taxable purpose proportion of the adjustable value of each depreciating asset. For example, for an asset with an adjustable value of $10,000 which is used only 50% for an income-producing purpose, add only $5,000 to the pool.

The partnership or trust can choose not to allocate an asset to the long life STS pool if the asset was first used, or installed ready for use, for a taxable purpose before 1 July 2001. A partnership or trust making this choice would depreciate such assets under the normal UCA rules.

Calculate the opening pool balance for each STS pool by adding the value of all depreciating assets allocated to the relevant pool.

Calculate the deduction for each STS pool as follows:

General STS pool deduction: opening pool balance ($) × 30%
Long life STS pool deduction: opening pool balance ($) × 5%

If necessary, make a reasonable apportionment for each STS pool deduction between primary production and non-primary production activities.

Write the result of the general STS pool deduction at (b) in **table 11**.

Write the result of the long life STS pool deduction at (c) in **table 11**.

> **NOTE**
> If either pool balance (after taking into account additions and disposals but before calculating the deductions in steps 2 and 3) is less than $1,000, calculate the deduction for the pool using step 5(b).

Step 3
Depreciating assets first used for a taxable purpose during the income year and cost addition amounts for assets already allocated to a pool

Calculate the deduction at half the relevant pool rate for:

- depreciating assets that the partnership or trust first used or installed ready for use for a taxable purpose during the year, and
- cost addition amounts for assets already allocated to an STS pool.

Calculate the deduction for the income year as follows:

- the taxable purpose proportion of the adjustable value of each depreciating asset first used for a taxable purpose this year x 15% (general STS pool assets) or 2.5% (long life pool assets), plus
- the taxable purpose proportion of cost addition amounts x 15% (general STS pool assets) or 2.5% (long life pool assets).

Write the total deduction for general STS pool assets at (d) in **table 11**.

Write the total deduction for long life STS pool assets at (e) in **table 11**.

> **NOTE**
> If either pool balance (after taking into account additions and disposals but before calculating the deductions in steps 2 and 3) is less than $1,000, calculate the deduction for these assets using step 5(b).

Step 4
Other depreciating assets

Calculate the deduction for the decline in value of all other depreciating assets that are not included in steps 1 to 3. For more information, see appendix 6 and the *Guide to depreciating assets 2007*. Write the total deduction at (f) in **table 11**.

Step 5
Disposal of depreciating assets

(a) *Low cost assets*

If the partnership or trust has disposed of a low-cost asset for which it has claimed an immediate deduction in step 1 this year or in the prior year, include the taxable purpose proportion of the termination value at **Reconciliation items** item **5**. Termination value includes money received from the sale of an asset or insurance money received as the result of the loss or destruction of an asset. For example, for a low-cost asset used only 50% for an income-producing purpose which was sold for $200 (excluding GST), only $100 will be assessable and included as a reconciliation adjustment.

(b) *Assets allocated to STS pools*

If the partnership or trust disposes of depreciating assets that have been allocated to either the general or long life STS pools, the taxable purpose proportion of the termination value is deducted from the closing pool balance. For example, for a pooled depreciating asset used only 50% for an income-producing purpose which was sold for $3,000 (excluding GST), only $1,500 will be deducted from the closing pool balance.

If the balance of a pool (after taking into account any additions and disposals but before calculating the deductions in steps 2 and 3) is less than $1,000 but more than zero, the partnership or trust can claim an immediate deduction for this amount. Write this deduction against the appropriate pool at (b) or (c) in **table 11**.

If the closing pool balance is less than zero, the amount below zero is included in assessable income at **Reconciliation items** item **5**. For more information about closing pool balances, see **Closing pool balance** in the next column.

If expenses are incurred in disposing of a depreciating asset these expenses may be taken into account in step 3.

(c) *Other depreciating assets*

See the *Guide to depreciating assets 2007* for information on how to calculate any balancing adjustment amounts on the disposal of other depreciating assets. Include balancing adjustment amounts at **Reconciliation items** item **5**. See worksheet 1 on pages 71–72.

TABLE 11 DEPRECIATION DEDUCTIONS (STS TAXPAYERS ONLY)

	Primary production ($)	Non-primary production ($)	Total ($)
Low cost assets			(a)
General pool			(b)
Long life pool			(c)
General pool (1/2 rate)			(d)
Long life pool (1/2 rate)			(e)
Other assets			(f)
Depreciation expenses Add up the amounts from (a) to (f).			(g)
Transfer the amount at (g) to **K Depreciation expenses** item **5**.			
Transfer the amount at (a) to **A Deduction for low cost assets** item **56**.			
Transfer the total of the amounts at (b) and (d) to **B Deduction for general pool assets** item **56**.			
Transfer the total of the amounts at (c) and (e) to **C Deduction for long life pool assets** item **56**.			

Closing pool balance

The closing balance of each STS pool for an income year is:

- the opening pool balance (see step 2), plus
- the taxable purpose proportion of the adjustable value of assets that were first used, or installed ready for use, for a taxable purpose during the year (see step 3), plus
- the taxable purpose proportion of cost addition amounts for assets in the pool during the year (see step 3), less
- the taxable purpose proportion of the termination value of any pooled assets disposed of during the year (see step 5(b)), less
- the STS pool deduction (see step 2), less
- the deduction for assets first used by the taxpayer during the year (see step 3), less
- the deduction for cost addition amounts for pooled assets during the year (see step 3).

If the closing pool balance is less than zero see step 5(b).

The closing pool balance for this year becomes the opening pool balance for the 2007–08 income year except if an adjustment is made to reflect the changed business use of a pooled asset.

The opening pool balance is needed to work out the pool deduction next year.

Motor vehicle expenses

Show at **L** motor vehicle running expenses only. These expenses include fuel, repairs, registration fees and insurance premiums. They do not include the following expenses shown at:

- **Expenses**, **G** **Lease expenses**
- **Expenses**, **I** **Total interest expenses**
- **Expenses**, **K** **Depreciation expenses**.

P Special substantiation and calculation rules for car expenses apply to partnerships in which at least one partner is an individual.

Under these rules, motor vehicle expenses can be claimed using one of four methods where the expense is for a motor car, station wagon, panel van, utility truck or other road vehicle designed to carry a load less than one tonne or fewer than nine passengers. For an explanation of these methods, see question **D1** in *TaxPack 2007*.

Print **N** in the CODE box if there is an amount shown at **L** and this amount relates to a:

- motorcycle
- taxi taken on hire
- road vehicle designed to carry a load of one tonne or more, or nine or more passengers.

In all other cases print in the CODE box the code from **table 12** that determines the method used to claim motor vehicle expenses applicable to the partnership.

If the partnership has more than one vehicle and uses a different method to claim motor vehicle expenses for each vehicle, use the code applicable to the largest claim.

TABLE 12

Code	Method used
S	Cents per km
T	12% of original price
O	1/3 of actual expenses
B	Logbook

Show any adjustment for tax purposes to the motor vehicle expenses included in the profit and loss statement at **Reconciliation items**, **B** **Expense reconciliation adjustments**. To calculate the amount of the expense reconciliation adjustment see worksheet 1 on pages 71–72.

For more information about keeping records, see *TaxPack 2007*.

Repairs and maintenance

Show at **M** the expenditure on repairs and maintenance of plant, machinery, implements and premises.

Write back any non-deductible expenditure, such as items of a capital nature or amounts relating to private use of an item shown at **M**, at **Reconciliation items**, **B** **Expense reconciliation adjustments**. The following information will help you work out whether you should make an expense reconciliation adjustment.

Repairs

As long as it is not expenditure of a capital nature, you may deduct the cost of repairs to property, plant, machinery or equipment used solely for producing assessable income or in carrying on a business for that purpose. You can only deduct expenditure on repairs to property used partially for business or income-producing purposes – for example, if the property is also used for private purposes, or in the production of exempt income – to an extent that is reasonable in the circumstances.

If items are newly acquired, including items acquired by way of a legacy or gift, the cost of remedying defects in existence at the time of acquisition is generally of a capital nature. Expenditure incurred in making alterations, additions or improvements is of a capital nature and is not deductible.

For more information on deductions for repairs, see *Taxation Ruling TR 97/23 – Income tax: deductions for repairs*.

Record keeping

To support any claim for repairs, keep source records showing full details of the nature and cost of repairs to each item.

All other expenses

Show at **N** the total of all other business expenses for the income year which have not already been included at **Expenses**, **P** to **M** – for example, travel expenses.

Note:

- Write back capital and other non-deductible items included at **N** at **Reconciliation items**, **B** **Expense reconciliation adjustments**.
- If you have included an amount for a loss on the sale of a depreciating asset at **N**, see appendix 6.
- Calculation of some deductions may be affected by the commercial debt forgiveness provisions – see appendix 4.
- Expenses listed here that are costs associated with borrowing and servicing debt may not be allowable under the thin capitalisation rules. For more information, see appendix 3. Include the non-deductible amount at **Reconciliation items**, **B** **Expense reconciliation adjustments**.

Total expenses

Show at **O** the total of all expense items shown at **Expenses**, **P** to **N**.

If there is a negative amount at **E** **Cost of sales** which exceeds the total of all other expenses, print **L** in the box at the right of the amount.

RECONCILIATION ITEMS

The reconciliation adjustments reconcile operating profit or loss as shown in the profit or loss account (the accounts) with the net income or loss for purposes of the income tax return.

If the partnership or trust has included any amounts such as exempt income or non-deductible expenses in the accounts, or has not included amounts which are assessable income or expenditure that is deductible, work out the reconciliation adjustments.

Income reconciliation adjustments

Show at **A** the net income-related reconciliation adjustment. The amounts included here fall into two classes that either increase or reduce the net adjustment:

- **income add backs** – amounts not shown in the accounts, but which are assessable income, including timing adjustments. These items increase the total amount shown at **A**. Examples include:
  - any excess of the tax value of closing stock over the tax value of opening stock (non-STS taxpayers) – see page 5
  - assessable balancing adjustment amounts on depreciating assets – see appendix 6
  - limited recourse debt amounts – see appendix 6
  - other assessable income not included in the accounts – STS taxpayers should see page 87
- **income subtractions** – income shown in the accounts, which is not assessable income, including timing adjustments. These items reduce the total amount shown at **A**. Examples include:
  - exempt income, including income exempted from Australian tax under a double tax agreement (DTA)
  - profit on the sale of a depreciating asset – see appendix 6
  - personal services income included in the assessable income of an individual (attributed amount) – see **28 Personal services income** on page 53
  - other income shown in the accounts which is not assessable for income tax purposes – STS taxpayers should see page 34.

To calculate the amount of the income reconciliation adjustments, see worksheet 1 on pages 71–72.

If the **income subtractions** exceed the **income add backs**, the total is a negative amount. Print **L** in the box at the right of the amounts shown at **A**.

Expense reconciliation adjustments

Show at **B** the net expense related reconciliation adjustment. The amounts included here fall into two classes that either increase or reduce the net adjustment:

- **expense add backs** – expenses shown in the accounts which are either not tax deductible or are only partly tax deductible, including timing adjustments. These items increase the total amount shown at **B**. Examples include:
  - additions to provisions and reserves
  - capital expenditure
  - certain expenses relating to personal services income that are not deductible – see **28 Personal services income**
  - debt deductions denied by the thin capitalisation provisions – see appendix 3
  - depreciation expenses*
  - expenses relating to exempt income, including expenses relating to DTA exempt income
  - hire purchase payments – see appendix 6
  - income tax expense
  - loss on the sale of a depreciating asset – see appendix 6
  - luxury car lease payments – see appendix 6
  - part of prepaid expenses not deductible this year – see the next page
  - penalties and fines
  - other non-deductible expenses – STS taxpayers should see the next page.

* Only add back amounts of depreciation expenses if the partnership or trust is not an STS taxpayer. However, exclude any STS pool deductions shown at **K** **Depreciation expenses**.

- **expense subtractions** – amounts not shown as expenses in the accounts but which are tax deductible, including timing adjustments. These items reduce the total amount shown at **B**. Examples include:
  - any excess of the tax value of opening stock over the tax value of closing stock (non-STS taxpayers) – see page 35
  - deductible balancing adjustment amounts on depreciating assets – see appendix 6
  - deduction for decline in value of depreciating assets (non-STS taxpayers) – see appendix 6
  - deduction for environmental protection expenses – see appendix 6
  - deduction for project pool – see appendix 6
  - **T** deduction for electricity connections and telephone lines – see appendix 6
  - hire purchase agreements – interest component – see appendix 6
  - **T** deduction for landcare operations – see appendix 6
  - luxury car leases – accrual amount – see appendix 6
  - part of prepaid expenses deductible this year, but not shown in accounts – see page 35
  - section 40-880 deduction – see appendix 6
  - other deductible items – STS taxpayers should see below.

If the **expense subtractions** exceed the **expense add backs**, the total is a negative amount. Print **L** in the box at the right of the amount.

To calculate the amount of the expense reconciliation adjustments, see worksheet 1 on pages 71–72.

Specific reconciliation adjustments

If the partnership or trust is eligible to continue in the STS and has chosen to do so at item **3**, you may need to make additional adjustments (see **STS taxpayers** on page 23–24).

For information on reconciliation adjustments that may apply to non-STS taxpayers, see **Reconciliation adjustments for non-STS taxpayers** on page 34.

STS taxpayers

You will need to make adjustments at **Reconciliation items** item **5** if:

- the partnership or trust is continuing in the STS this year, has chosen to continue using the STS accounting method and the amounts shown at the income and expense sections of item **5** are not based on the STS accounting method, or
- the partnership or trust is continuing in the STS this year and is changing from using the STS accounting method, or
- the partnership or trust has disposed of depreciating assets during the year.

These adjustments are explained in more detail below. Worksheet 1 on pages 71–72 will help with the calculations.

Trade debtors and creditors as at 30 June 2007

If the partnership or trust is continuing in the STS this year, has chosen to continue using the STS accounting method and has included at any income labels at item **5** amounts of ordinary income that have been derived but not received in 2006–07, the amounts not received are not assessable under the STS rules this year – for example, trade debtors as at 30 June 2007.

Show these amounts as income subtractions at **A Income reconciliation adjustments**.

If the partnership or trust is continuing in the STS this year, has chosen to continue using the STS accounting method and has included at any expense labels at item **5** amounts of general deductions, repairs or tax-related expenses that have been incurred but not paid in 2006–07, the amounts not paid are not deductible under the STS rules this year – for example, trade creditors as at 30 June 2007.

Show these amounts as expense add backs at **B Expense reconciliation adjustments**.

Adjustments when changing from the STS accounting method

If the partnership or trust is continuing in the STS this year but has stopped using the STS accounting method, read below.

If the partnership or trust has previously not included at any income label at item **5** amounts of ordinary income that were derived but not received while using the STS accounting method, these amounts are assessable this year. Show these amounts as income add backs at **A Income reconciliation adjustments**.

If the partnership or trust has previously not included at any expenses labels at item **5** amounts of general deductions, repairs or tax-related expenses that were incurred but not paid while using the STS accounting method, these amounts are deductible this year. Show these amounts as expense subtractions at **B Expense reconciliation adjustments**, unless they are tax-related expenses. Include the deduction for tax-related expenses at item **15** on the tax return.

Disposal of depreciating assets

If the partnership or trust has disposed of depreciating assets during the income year, the following amounts (if any) are income add backs at **A Income reconciliation adjustments**:

- taxable purpose proportion of the termination value of low cost assets disposed of for which an immediate deduction has been claimed, and
- if the closing pool balance of the STS pool is less than zero, the amount below zero, and
- assessable balancing adjustment amounts on the disposal of depreciating assets not subject to the STS depreciation rules.

Show any deductible balancing adjustment amounts on the disposal of depreciating assets not subject to the STS depreciation rules as expense subtractions at **B Expense reconciliation adjustments**.

Prepaid expenses

STS taxpayers are entitled to an immediate deduction for prepaid expenses if the expenditure is incurred for a period of service not exceeding 12 months and the eligible service period ends on or before the last day of the next year of income. If the eligible service period is more than 12 months, or ends after the next year of income, you must apportion the deduction for the expenditure over the eligible service period or 10 years, whichever is less. The immediate deduction under this 12-month rule does not apply to expenditure incurred under a tax shelter agreement except where it is for certain expenditure incurred under a plantation forestry managed agreement. For more information, see *Deductions for prepaid expenses 2007*. If expense labels include prepaid expenses that differ from the amounts allowable as deductions in the 2006–07 income year, make the reconciliation adjustment at **B Expense reconciliation adjustments**.

Reconciliation adjustments for non-STS taxpayers

Some of the reconciliation adjustments that may apply to non-STS taxpayers are explained below. Worksheet 1 on pages 71–72 will help with the calculations.

Exiting from the STS this year

If the partnership or trust has exited from the STS this year and has previously not included at any income labels at item **5** amounts of ordinary income that were derived but not received while in the STS, these amounts are assessable this year – for example, trade debtors as at 30 June 2006.

Show these amounts as income add backs at **A Income reconciliation adjustments**.

If the partnership or trust has exited from the STS this year and has previously not included at any expense labels at item **5** amounts of general deductions, repairs or tax-related expenses that were incurred but not paid while in the STS, these amounts are deductible this year – for example, trade creditors as at 30 June 2005.

Show these amounts (other than tax-related expenses) as expense subtractions at **B Expense reconciliation adjustments**. Include the deduction for tax-related expenses at item **15** on the tax return.

Trading stock on hand (non-STS taxpayers)

Reconciliation adjustments will be required where the tax values of trading stock on hand have not been used in calculating the amount shown at **Expenses**, **E Cost of sales**. Any excess of the tax value of closing stock over the tax value of opening stock would be an income add back. Any excess of the tax value of opening stock over the tax value of closing stock would be an expense subtraction. If you have used accounting values for trading stock on hand in calculating the amount shown at **E Cost of sales**, you will need to take further reconciliation adjustments from those amounts.

For more information on the tax value of trading stock, see **36 Opening stock** and **38 Closing stock**.

Prepaid expenses (non-STS taxpayers)

The partnership's or trust's total deduction for prepaid expenses in the 2006–07 income year may comprise two components:

- the part of prepaid expenses incurred in the 2006–07 income year which relates to that income year, and
- that part of the 2005–06 or earlier income year's expense that was not deductible in that income year, but which is deductible in the 2006–07 income year under the prepayment rules.

For more information, see *Deductions for prepaid expenses 2007*.

If expense labels include prepaid expenses that differ from the amounts allowable as deductions in the 2006–07 income year, make the reconciliation adjustment at **B Expense reconciliation adjustments**.

Net income or loss from business

The net income or loss from business is total business income less total expenses incurred in producing that income, adjusted by any reconciliation items.

Show the net income or loss from business at:

- **Q** for primary production, and/or
- **R** for non-primary production.

If the amount at **Q** or **R** is a loss, print **L** in the box at the right of the amount.

Show at **S**:

- total business income, minus
- **O Total expenses**, plus or minus
- **A Income reconciliation adjustments** and **B Expense reconciliation adjustments**.

The sum of the net income or loss from business at:

- **Q** for primary production, and
- **R** for non-primary production

equals the amount shown at **S**.

If the amount at **S** is an overall loss, print **L** in the box at the right of the amount.

6 TAX WITHHELD

Tax withheld where ABN not quoted

Show at **T** the total of amounts withheld from income subject to withholding where an ABN was not quoted. This amount equals the sum of the amounts shown in the tax withheld boxes on the *Non-individual PAYG payment summary schedule 2007*. For instructions on completing the schedule, see **Non-individual PAYG payment summary schedule** on page 3.

Do not include any share of amounts withheld that is a distribution from another partnership or trust where an ABN was not quoted. Show this at **C Share of credit for tax withheld where ABN not quoted** item **8**.

If an amount of tax withheld is shown at **T**, you must declare the corresponding gross income at **C** and/or **D Gross payments where ABN not quoted** item **5**.

Credit for tax withheld – foreign resident withholding

Show at **U** the total amount of tax withheld from payments subject to foreign resident withholding. Do not include any share of foreign resident withholding credits distributed to the partnership or trust from other partnerships and/or trusts. Show these amounts at item **8**.

If a credit is claimed at **U** for tax withheld under foreign resident withholding, the corresponding gross payment must be shown at **B Gross payments subject to foreign resident withholding** item **5**.

7 CREDIT FOR INTEREST ON EARLY PAYMENTS – AMOUNT OF INTEREST

T

Show at **W** only the calculated interest amount of 50 cents or more for early payment. Do not show actual payments.

Early payment interest is payable only where the tax is actually paid more than 14 days before the due date for payment. Amounts which may attract early payment interest include payments of:

- income tax (including Medicare levy)
- a penalty on the shortfall of income tax relating to an amended assessment for income years up to and including 1999–2000
- an interest charge for lodging a late income tax return for income years up to and including 1999–2000
- an interest charge on the shortfall of income tax relating to an amended assessment for income years up to and including 1999–2000
- a shortfall interest charge.

Amounts which are not directly paid but are reduced by the crediting or applying of an amount, do not attract early payment interest. These amounts include:

- credit for instalments payable under the PAYG instalment regime
- credit for amounts withheld from withholding payments under the PAYG withholding regime
- an overpayment of other income tax liabilities
- an RBA surplus, and
- any other credit entitlement arising under a taxation law.

Early payment interest is also not payable on:

- any component of the payment that exceeds the amount due, and
- an amount for any period during which that amount also attracts interest on overpayment.

For taxable trusts, early payment interest is calculated from the later of:

- the date of issue of the notice notifying the amount of tax or interest, or
- the date the early payment is made.

Interest is payable up to the due date for payment, but only on the amount of payment up to the value of the debt.

However, where an amount that is paid early is refunded before the day it becomes due and payable, interest does not accrue on the amount for any period after the day it is refunded.

Date of payment is:

- the date shown on the receipt from the Tax Office or post office, or
- the date payment is posted to the Tax Office plus three days, or
- the date shown on the taxpayer's bank statement where payment is made through direct debit – that is, electronic funds transfer (EFT).

TABLE 13
Interest rates for early payments calculation:

Period	Interest rate (p.a.)
Jul–Sep 2006	5.87%
Oct–Dec 2006	6.19%
Jan–Mar 2007	6.37%
Apr–Jun 2007	6.37%

If the early payment extends over two or more interest periods, calculate the interest for the number of days in each period.

Interest is calculated as follows:

$$\text{Interest} = \frac{\text{number of days}}{365\,^{*}} \times \text{amount of payment} \times \text{interest rate for period}$$

* 366 for a leap year

Keep a record of the amount of early payment interest claimed. This interest is assessable as income in the income year it is paid or credited against another liability.

8 PARTNERSHIPS AND TRUSTS

The partnership's or trust's income from another partnership includes income or a loss which the partnership or trust received, was entitled to receive or was entitled to deduct in respect of that other partnership.

The partnership's or trust's income from another trust includes income the partnership or trust received or was entitled to receive as a beneficiary under a will, settlement, deed of gift or other instrument of trust.

Distributions from another partnership or trust include the share of any:

- TFN amounts withheld from interest, dividends and unit trust distributions
- franking credits attached to franked dividends received indirectly from an Australian franking company
- amounts withheld where an ABN was not quoted.

Copy the details from any statements received from the other partnerships and trusts to worksheet 2 on page 73. This is the partnership's or trust's record if the Tax Office needs more details later.

NOTE

- Do not show any dividends or franking credits indirectly received that were attributable to distributions from a New Zealand franking company at this label. Show these amounts at item **20 Other assessable foreign source income**.
- Do not include any trust amounts treated as dividends under Division 7A of the ITAA 1936. Show these amounts at **K Unfranked amount** item **11**.
- Do not include foreign income or a capital gain in income distributions from partnerships and trusts at item **8**. Show foreign income at:
  – item **19 Attributed foreign income**, and
  – item **20 Other assessable foreign source income**.

- Ⓣ Show net capital gains (including foreign capital gains) at item **18 Capital gains**. Dividends received from listed investment companies are not distributions of net capital gains. For more information, see the *Guide to capital gains tax 2007*.
- Ⓟ A partnership does not own assets for CGT purposes. A partnership asset is owned by the partners in the proportion to which they have agreed. If a CGT event happens in relation to a partnership during the year or to one of its CGT assets, or the partnership received a share of a capital gain from a trust, any capital gain or capital loss is made by the partners individually. Each partner must calculate their capital gain or capital loss by reference to the partnership agreement, or to partnership law if there is no agreement, and include it on their own tax return. For more information on how a partner returns their share of a capital gain or capital loss, see the *Guide to capital gains tax 2007*.

If family trust distribution tax (FTDT) has been paid on a conferral of present entitlement to, or distribution of, income or capital of another partnership or trust which would otherwise be assessable to the partnership or trust, the income or capital is excluded from the partnership's or trust's assessable income under section 271-105 of Schedule 2F to the ITAA 1936. You cannot claim a deduction for any losses or outgoings incurred in deriving an amount which is excluded from assessable income under section 271-105. You can claim a credit or tax offset for any franking credit attached to a dividend which is exempt income by reason of section 271-105. For more information about the circumstances in which FTDT is payable, see pages 14 and 17.

If the trustee of a closely held trust is subject to ultimate beneficiary non-disclosure tax (UBNT) on a share of net income of the closely held trust, the trustee beneficiary (and as a result any partnership or other trust to which that share of net income may pass or ultimate beneficiary) does not need to include that share of net income in their own assessable income.

PRIMARY PRODUCTION

Distribution from partnerships

Show at **A** the amount of primary production income or loss distribution from other partnerships.

If this amount is a loss, print **L** in the box at the right of the amount.

Distribution from trusts

Show at **Z** the amount of primary production income distribution from other trusts. Include income to which the partnership or trust became presently entitled in the income year but has not yet received. If this amount is a loss, print **L** in the box at the right of the amount. Show a loss at **Z** only if it is a component of an overall distribution of net income from the same trust.

If this amount is not a loss, in the box at the right of **Z** print the code from **table 1** on page 18 that best describes the type of trust from which the distribution is made. If this amount is from more than one type of trust, print the code that represents the trust with the greatest amount of distribution.

Deductions relating to distribution in A and Z

Show at **S** the partnership's or trust's deductions for its own expenses relating to primary production distributions from other partnerships or trusts.

If any expenses have been prepaid, the amount that can be claimed at **S** may be affected by the prepayment provisions. For more information, see *Deductions for prepaid expenses 2007*.

Expenses listed here that are costs associated with borrowing and servicing debt may not be allowable deductions under the thin capitalisation rules. For more information, see appendix 3. The disallowed amount reduces the amount that would otherwise go at **S**.

Net primary production distributions

Show at this label the net result of partnership and/or trust distributions of primary production income.

Print the total amount in the box at **Net primary production distribution**. If this amount is a loss, print **L** in the box at the right of the amount.

NON-PRIMARY PRODUCTION

Distribution from partnerships, less foreign income

Show at **B** the amount of non-primary production income or loss distribution from other partnerships. Include any share of credit for tax withheld from foreign resident withholding that is attached to the distribution. (You also include the share of credit at **U** **Share of credit from foreign resident withholding** item **8**.)

If the amount at **B** is a loss, print **L** in the box at the right of the amount.

If the distribution includes franked dividends from a franking entity, check the advice detailing the distribution to ensure that the amounts to be included at this label represent both the partnership's or trust's share of the franked dividend and its share of the franking credit attached to the franked dividend. The franking credit is also included at **D** **Share of franking credit from franked dividends** item **8**.

Do not show any dividends or franking credits indirectly received that were attributable to distributions from a New Zealand franking company at this label. If the partnership or trust received dividends or franking credits indirectly from a New Zealand franking company, see item **20 Other assessable foreign source income**.

> **NOTE**
> If the partnership or trust received a distribution from another partnership and that other partnership advised that it claimed a deduction in respect of a listed investment company (LIC) capital gain amount, the partnership or trust is required to include its share of the deduction allowed to the other partnership at item **12 Other Australian income**.

Distribution from trusts, less net capital gain and foreign income

Show at **R** the amount of non-primary production income distributions from other trusts. Include any share of credit for tax withheld from foreign resident withholding that is attached to the distribution. (You also include the share of credit at **U** **Share of credit from foreign resident withholding** item **8**). If the distribution includes franked dividends from a franking entity, check the advice detailing the distribution to ensure that the amounts to be included at this label represent both the partnership's or trust's share of the franked dividend and its share of the franking credit attached to the franked dividend. The franking credit is also included at **D** **Share of franking credit from franked dividends** item **8**.

Do not show any dividends or franking credits indirectly received which were attributable to distributions from a New Zealand franking company at this label. If the partnership or trust received dividends or franking credits indirectly from a New Zealand franking company, see item **20 Other assessable foreign source income**.

Include income to which the partnership or trust became presently entitled in the income year but has not yet received. If this amount is a loss, print **L** in the box at the right of the amount. Show a loss at **R** only if the amount is a component of an overall distribution of net income from the same trust.

If this amount is not a loss, in the box at the right of **R** print the code from **table 1** on page 18 that best describes the type of trust from which the distribution is made. If this amount is from more than one type of trust, print the code that represents the trust with the greatest amount of distribution.

> **NOTE**
> If the partnership or trust received a distribution from another trust and that other trust advised that it claimed a deduction in respect of a listed investment company (LIC) capital gain amount, the partnership or trust is required to include its share of the deduction allowed to the other trust at item **12 Other Australian income**.

Deductions relating to distribution in B and R

Show at **T** the partnership's or trust's deductions for its own expenses for non-primary production distributions from other partnerships or trusts. If any expenses have been prepaid, the amount that can be claimed at **T** may be affected by the prepayment provisions. For more information, see *Deductions for prepaid expenses 2007*.

Expenses listed here that are costs associated with borrowing and servicing debt may not be allowable deductions under the thin capitalisation rules. For more information, see appendix 3. The disallowed amount reduces the amount that would otherwise go at **T**.

If FTDT has been paid on income or capital of another partnership or trust to which the partnership or trust is presently entitled or which has been distributed to the partnership or trust, the income or capital is excluded from the assessable income of the partnership or trust under section 271-105 of Schedule 2F to the ITAA 1936. Do not show this at **A**, **Z**, **B** or **R**. You cannot claim a deduction for any losses or outgoings incurred in deriving an amount which is excluded from assessable income under section 271-105 at **S** or **T**. For more information about the circumstances in which FTDT is payable see page 14 for partnerships and page 17 for trusts.

If the trustee of a closely held trust is subject to UBNT on a share of net income of the closely held trust, the trustee beneficiary (and as a result any partnership or other trust to which that share of net income may pass or ultimate beneficiary) does not need to include that share of net income in their own assessable income and does not show it at **A**, **Z**, **B** or **R**. You cannot claim any losses or outgoings incurred in deriving an amount which is excluded from assessable income at **S** or **T**.

Net non-primary production distribution

Show at this label the net result of partnership and/or trust distributions of non-primary production income.

Print the total amount in the box at **Net non-primary production distribution**. If this amount is a loss, print **L** in the box at the right of the amount.

SHARE OF CREDITS FROM INCOME

Share of credit for tax withheld where ABN not quoted

If the income shown at **A**, **Z**, **B** or **R** includes any share of amounts withheld where an ABN was not quoted, show the share of that credit at **C**.

Share of franking credit from franked dividends

Show at **D** the partnership's or trust's share of any franking credits from a franking entity received through another partnership or trust.

Show franking credits received directly from a paying franking entity at **M** **Franking credit** item **11**.

Do not show franking credits relating to a dividend received through another partnership or trust if:

- They were attributable to a distribution from a New Zealand franking company. If the partnership or trust received franking credits indirectly from a New Zealand franking company, see item **20 Other assessable foreign source income**.
- The holding period rule and related payments rule were not satisfied in relation to the dividend. For more information, see appendix 1.

- FTDT has been paid on the dividend paid or credited by a company which has made an interposed entity election. The dividend is excluded from assessable income under section 271-105 of Schedule 2F to the ITAA 1936. A franking credit or tax offset cannot be claimed for any franking credit attached to that dividend. For more information about the circumstances in which FTDT is payable, see pages 14 and 17, or
- The trustee of a closely held trust is subject to UBNT on a share of net income of the closely held trust. The trustee beneficiary (and as a result any subsequent beneficiary) does not need to include that share of net income in their own assessable income and a credit or tax offset cannot be claimed for any franking credit attached to that dividend.

Share of credit for TFN amounts withheld from interest, dividends and unit trust distributions

Unless the partnership or trust claimed an exemption or lodged a TFN with the investment body, amounts may be withheld from interest, dividends and unit trust distributions. These amounts withheld from interest, dividends and unit trust distributions are called TFN amounts withheld. The withholding is currently at a rate of 46.5% of the payment made.

Show at **E** the share of the net amount of TFN amounts withheld on interest, dividends and unit trust distributions relating to a distribution from another partnership or trust. Credits for TFN amounts withheld are allowed in the assessments of the partners, beneficiaries or trustees.

Share of credit for tax withheld from foreign resident withholding

Amounts may be withheld from some payments to specific recipients due to the operation of the foreign resident withholding measure. These payments relate to entertainment or sports activities, construction and related activities and casino gaming junket activities.

Show at **U** the partnership's or trust's share of any foreign resident withholding credits received from other partnerships and/or trusts. Ensure that this amount is included in the gross distribution amount shown at item **8**, either at **B** **Distribution from partnerships, less foreign income** or **R** **Distribution from trusts, less net capital gain and foreign income**.

9 RENT

STS taxpayers

If the partnership or trust is continuing in the STS this year and has chosen to continue using the STS accounting method, base the gross rent at **F**, interest deductions at **G**, and general deductions and repairs included at **H** on the STS accounting method. Depreciating assets used in rental properties are generally excluded from the STS capital allowance rules on the basis that the assets are part of property that is subject to a depreciating asset lease. For more information, see page 23.

Gross rent

Show at **F** the gross amount of rental income. This item cannot be a loss.

Rental income includes booking or letting fees, bond moneys if the partnership or trust becomes entitled to retain them, any insurance payouts that compensate for lost or forgone rent and reimbursements from tenants of deductible expenses incurred.

If the partnership or trust is registered for GST and GST is payable in relation to rental income, exclude the GST from gross rent at **F**.

Show rent from foreign sources at item **20 Other assessable foreign source income**.

> **NOTE**
>
> **Lease premium received from a CGT event**
>
> **P** A capital gain or a capital loss made from the receipt of a lease premium is shown on each partner's own tax return.
>
> **T** A capital gain or a capital loss made from the receipt of a lease premium is shown at item **18 Capital gains**.
>
> For more information about CGT events involving leases, see the *Guide to capital gains tax 2007*.

Interest deductions

If borrowed monies are used to finance a property investment, interest paid on the borrowing generally is deductible.

However, the thin capitalisation rules may apply to reduce interest deductions. These rules place a limit on the amount of interest and other borrowing costs that can be deducted for Australian tax purposes. For more information, see appendix 3. The disallowed amount reduces the amount that would otherwise go at **G**.

Show at **G** the total deductible amount of interest expenses incurred in earning rental income.

Capital works deductions

Show at **X** the total capital works deductions amount for rental buildings only. For information on capital works deductions, see appendix 5.

Other rental deductions

Show at **H** the total of other deductible expenses incurred in earning rental income.

If the partnership or trust is registered for GST and GST is payable in relation to rental income, exclude any input tax credit entitlements that arise in relation to expenses from the amount shown at **H**.

Expenses listed here that are costs associated with borrowing and servicing debt may not be allowable deductions under the thin capitalisation rules. For more information, see appendix 3. The disallowed amount reduces the amount that would otherwise go at **H**.

Deductions for the decline in value of depreciating assets used to earn rental income are generally shown at **H**. However, if the partnership or trust has allocated some of these assets to a low-value pool, you may need to show deductions at item **15 Other deductions**. For more information, see appendix 6.

Net rent

Show at this label the net amount of any rent. If this amount is a loss, print **L** in the box at the right of the amount.

For more information, see *Rental properties 2007* (NAT 1729–6.2007).

> **NOTE**
> Tax agents who lodge partnership or trust tax returns through ELS must complete the *Partnerships and trusts rental property schedule 2007* if item **9 Rent** is completed. You do not have to complete the partnerships and trusts rental property schedule if you are lodging a paper version of the partnership or trust tax return.

10 GROSS INTEREST

Show at **J** the interest from banks and credit unions, building societies, debentures, notes and deposits, income accrued on discounted or deferred interest securities, government securities, Australian Government loans issued before 1 November 1968 and interest paid by the Tax Office.

The total – that is the gross amount of interest received or credited – must be included in assessable income.

> **NOTE**
> Show interest that is part of a cash management trust distribution or other similar trust investment product at item **8 Partnerships and trusts**.

Copy details from all statements to worksheet 3 on page 74. Keep the worksheet with your tax records.

Do not include non-share dividends received from holding a non-share equity interest. If the partnership or trust holds such an interest, the issuer is obliged to forward a dividend statement with details of the dividends, which should be shown at item **11 Dividends**. Further information on non-share dividends and non-share equity interests is in the *Debt and equity tests: guide to the debt and equity tests*, available on our website.

Discounted, deferred interest or capital-indexed securities

Show at **J** the appropriate amount of discount, interest or other gain which accrued this income year on a discounted, deferred interest or capital-indexed security:

- that issued after 16 December 1984
- that had a maturity date more than 12 months from the issue date, and
- if the sum of all payments under the security (except periodic interest – for example, a coupon rate) exceeds its issue price by greater than 1.5%.

EXAMPLE 12

On 1 July a zero-interest-discounted security is issued at $82.65, redeemable on 30 June after two years at a face value of $100. The investor holds the security until it matures. The investor is required by the ITAA 1936 to calculate the effective rate of interest for each six-month period. In this case it is 4.88%.

The accrued amount included in the total income each income year is equal to the increase in value of the security in that year, as follows:

TABLE 14

Value of security at:		Year 1 ($)	Year 2 ($)
Beginning of year	(a)	82.65	90.91
Half-year	(b)	86.68	95.35
Increase	(b) – (a) = (c)	4.03	4.44
End of year	(d)	90.91	100.00
Increase	(d) – (b) = (f)	4.23	4.65
Increase for year	(c) + (f)	8.26	9.09

In the example the six-monthly period falls at exactly half-year.

TFN amounts withheld from gross interest

Show at **I** any TFN amounts withheld from gross interest where a TFN has not been provided to the investment body.

Record keeping

Keep all documents issued by the investment body that detail payments of income and any TFN amounts withheld from those payments.

Do not attach these documents to the partnership or trust tax return – keep them with the partnership's or trust's tax records.

> **NOTE**
> We may check the amount shown at **J** with our own records to determine accuracy. See **Information matching** on page 5.

11 DIVIDENDS

If the partnership or trust is a shareholder or holder of a non-share equity interest in a company (including a listed investment company), or held units in a corporate unit trust or a public trading trust, the company, corporate unit trust or public trading trust gives the partnership or trust a statement of dividends or non-share dividends. This statement includes:

- the name of the entity making the distribution
- the date on which the distribution was made
- the amount of the distribution
- the amount of franking credit allocated to the distribution
- the franking percentage for the distribution
- the amount of any withholding tax that has been deducted from the distribution
- the name of the shareholder
- if the distribution is unfranked, a statement to that effect, and
- if the distribution is franked, the franked amount and the unfranked amount of the distribution.

If a franked distribution has been received with an associated distribution statement that does not distinguish between the franked and unfranked portions of the dividend, include the total dividend amount at **L Franked amount** and include any attached franking credits at **M Franking credit**.

Show only amounts received from Australian companies, corporate limited partnerships, corporate unit trusts and public trading trusts. Show dividends that are part of a distribution from a managed investment fund or other similar trust investment product at item **8 Partnerships and trusts.** Show dividends received from foreign sources, including dividends from a New Zealand company with Australian franking credits attached, at item **20 Other assessable foreign source income**.

Copy details from all statements to worksheet 4 on page 75. Keep the worksheet with the partnership's or trust's tax records.

If the partnership or trust was paid a dividend by a listed investment company (LIC) and the dividend advice statement shows a LIC capital gain amount, the partnership or trust can claim a deduction of 50% of the LIC capital gain amount at item **14 Deductions relating to Australian investment income**.

Distributions from a film licensed investment company (FLIC) may be affected by section 375-872 of the ITAA 1997. This provision treats certain distributions of concessional capital (capital that was invested in a FLIC during its licence period) as franked dividends.

A partnership or trust which invested in a FLIC may have received a notice from the company advising that it is returning an amount of concessional capital which, for tax purposes, is a franked dividend. The FLIC will advise the amount of dividend and the franking credit.

For trusts, show the amount of the franked dividend at **L** and include the franking credit at **M**.

For partnerships, do not include this dividend and franking credit on the partnership's income tax return. Instead, each partner includes it on their own tax return in the same proportion as that applicable to the subscription payment for the shares.

If family trust distribution tax (FTDT) has been paid on a dividend paid or credited to the partnership or trust by a company which has made an interposed entity election, the dividend is excluded from the assessable income of the partnership or trust under section 271-105 of Schedule 2F to the ITAA 1936. Do not show it at **K** or **L**. You cannot claim a deduction for any losses or outgoings incurred in deriving an amount which is excluded from assessable income under section 271-105 and you cannot claim a credit or tax offset for any franking credit attached to the non-assessable non-exempt portion of the dividend. Accordingly, do not include any amount at **M** for a franking credit attached to the whole or part of a dividend that is non-assessable non-exempt under section 271-105. For more information about the circumstances in which FTDT is payable, see pages 14 and 17.

For more information on dividends, franking credits and tax offset entitlement, see appendix 1.

Unfranked amount

Show at **K** the gross amount of unfranked dividends, and the unfranked amount of partially franked dividends, received before any TFN amounts were withheld.

If the partnership or trust is a holder, or an associate of a holder, of a share or non-share equity interest in a private company and it:

- received directly or indirectly payments, loans or forgiveness of debt from the company, or
- received loans or forgiveness of debt from a trustee, where the company has an unpaid present entitlement from the trust, or
- received payments from a trustee which are attributable to certain unrealised gains, where the company has an unpaid present entitlement from the trust

the amounts (subject to distributable surplus and in the case of a trust the unpaid present entitlement) of those payments, loans not repaid or debts forgiven are returned as an unfranked dividend unless they are specifically excluded under the provisions of Division 7A of Part III of the ITAA 1936.

Dividends paid under a demerger are generally not assessable dividends. Do not include a dividend paid under a demerger at **K** unless the head entity of the demerger group has elected under subsection 44(2) of the ITAA 1936 that it be treated as an assessable dividend.

Franked amount

Show at **L** the franked amount of franked dividends received before any TFN amounts were withheld.

If you have received a franked distribution with an associated distribution statement that does not distinguish between the franked and unfranked portions of the dividend, include the total dividend amount at **L** and include any attached franking credits at **M**.

Franking credit

Show at **M** the amount of franking credits received directly from a paying company.

The amount at **M** is distributed to the partners, beneficiaries or trustee and is allowed as a tax offset to reduce their tax payable.

Do not show:

- franking credits if the partnership or trustee did not satisfy the holding period rule and the related payments rule in relation to the dividend (for more information, see appendix 1)
- franking credits received indirectly through another partnership or trust – show these amounts at **D Share of franking credit from franked dividends** item **8**
- franking credits attached to distributions paid by a New Zealand franking company. If the partnership or trust received franked distributions from a New Zealand franking company, see item **20 Other assessable foreign source income**.

TFN amounts withheld from dividends

Show at **N** the total of TFN amounts withheld from dividends received, less any refund of TFN amounts withheld.

> **NOTE**
>
> We may check the amount shown at **K**, **L** and **M** with our own records to determine accuracy. See **Information matching** on page X.

12 OTHER AUSTRALIAN INCOME

Show at **O** the total amount of other Australian income.

If the amount is a loss, print **L** in the box at the right of the amount. The following are some examples of the amounts to be included at **O**.

Gains on the disposal of traditional securities

Show at **O** any gains on the disposal or redemption of a traditional security which are assessable under section 26BB of ITAA 1936. For more information about gains and losses on traditional securities, including traditional securities that are convertible notes or exchangeable notes, see *You and your shares 2007* (NAT 2632–6.2007).

Bonuses from life insurance companies and friendly societies

If, during the year ended 30 June 2007, the partnership or trust received any bonuses or other amounts in the nature of bonuses on the maturity, forfeiture, partial or full surrender of a short-term life insurance policy taken out after 7 December 1983, you may need to show the amount at **O**.

Life insurance policies are issued by life insurance companies and friendly societies.

A partnership or trust is regarded as having received a bonus if it re-invests or otherwise deals with the bonus during the income year.

Do not include the amount shown on a bonus certificate if the partnership or trust:

- received it because of death, accident, illness or other disability suffered by the person on whose life the policy was effected
- received it under a policy held by a superannuation fund or scheme, an approved deposit fund or a pooled superannuation trust
- can show that the amount was received because of serious financial difficulties, or
- received a bonus certificate in respect of an amount allocated to increase the amount receivable on surrender or maturity.

If the policy has a date of commencement of risk on or before 7 December 1983, any bonuses received this year are not assessable.

If the policy has a date of commencement of risk after 7 December 1983, any bonus is included in assessable income in full if received during the first eight years after the date of commencement of risk of the policy. Two-thirds of the bonus amount is included if it is received in the ninth year and one-third of the bonus amount if it is received in the 10th year. Amounts received after the 10th year are not included.

If, during the term of the policy, the amount of a premium increases by more than 25% over the previous year's premium, the policy is taken to have started again with a commencement date at the beginning of the policy year in which the premium increased.

The partner, trustee or the beneficiary may, on their own tax return, claim a tax offset for a bonus or any other amount in the nature of a bonus included in the income, if the organisation issuing the life policy is:

- a life insurance company that pays tax on the income from which the amount was paid, or
- a friendly society.

The tax offset for the 2006–07 income year is equal to 30 cents in each dollar.

Include the bonus or other amount in the nature of a bonus in the calculation of net income or loss of the partnership or trust and apportion it among the partners or beneficiaries in the same ratio as they share in that net income or loss.

If the partnership or trust received assessable bonuses from a life insurance company or friendly society, include the total amount at **O**. To ensure that the tax offset is allowed, attach a statement to the partnership or trust tax return showing the amounts from the life insurance company and friendly society life insurance policies. Print **YES** in the **Have you attached any 'other attachments'?** box at the top of page 1 of the tax return.

Record keeping

If a bonus or other amount in the nature of a bonus is included at **O**, or an amount was not included because of the circumstances under which it was received, keep a record of the following:

- the type of policy
- the name of the issuing organisation
- the policy number
- the date the policy was taken out
- the bonus statement or advice
- the date that each amount was received
- the nature of each amount – for example, bonus, loan, withdrawal
- the circumstances under which each amount was received – for example, partial surrender of policy, serious financial difficulties, death, accident, illness or other disability
- the basis of calculation of the amount included.

For more information on bonuses received from certain life insurance policies, see *Taxation Ruling IT 2346 – Income tax: bonuses paid on certain life assurance policies – section 26AH – interpretation and operation*.

For more information on amounts switched between investment options for the same life insurance policy, see *Taxation Determination TD 94/82 – Income tax: does section 26AH of the Income Tax Assessment Act 1936 apply when investment options are 'switched' under an eligible policy?*.

Bonuses credited from friendly society income bonds

Include bonuses received from friendly society income bonds at **O**. The distribution statement issued by friendly societies to income bond holders will advise the amount that should be included as income. Do not include these amounts in the calculation of the tax offset applicable to bonuses from life insurance policies.

Add backs: Listed investment company (LIC) capital gain

If a distribution is received from another partnership or trust which advises that it has claimed a deduction for a LIC capital gain amount, the partnership or trust is required to add back as income its share of the deduction allowed to the other partnership or trust.

Royalties

For information on royalty income shown at **O**, see appendix 2.

Foreign exchange gains or losses

Show at **O** assessable Australian source foreign exchange (forex) gains or deductible losses that you have not already included at any other label – for example, a label in item **5 Business income and expenses**. If the total amount at **O** is a loss, print **L** in the box at the right of the amount.

For more information on how to calculate forex gains and losses, see **Foreign exchange (forex) gains and losses** on page 5.

> **NOTE**
>
> As foreign currency is a CGT asset, the capital gains provisions apply to any capital gain or capital loss made on a CGT event happening. Any capital gain would generally be reduced to prevent double taxation if the gain was assessable under Division 775 of the ITAA 1997.
>
> **P** If a partnership has made a foreign exchange gain or loss, which is subject to CGT, each partner must include their share of the capital gain or capital loss on their own tax return.
>
> **T** If a trust has made a foreign exchange gain or loss, which is subject to CGT, show the capital gain or capital loss at **A** **Net capital gain** item **18**.

Eligible termination payments **T**

An eligible termination payment (ETP) is:

- a lump sum paid by an employer in consequence of the termination of employment
- a lump sum payment from a superannuation fund, approved deposit fund (ADF), retirement savings account (RSA) or life assurance company, such as:
  - payments received when a superannuation pension or annuity is changed into a lump sum
  - payments received when a withdrawal is made from an ADF
  - other payments, excluding a pension or annuity from a superannuation fund
- a Tax Office payment from the Superannuation Holding Accounts (SHA) special account or a payment of superannuation guarantee amounts collected
- a payment from the sale of an active asset of a small business, which would otherwise be an assessable capital gain – called the 'CGT exempt component'.

An ETP paid following the death of a person – for example, a payment from a superannuation fund or an RSA of which the deceased person was a member – is called a 'death benefit ETP'.

A death benefit ETP paid to the trustee of the deceased person's estate is assessed with the estate's income. However, provided the death benefit ETP is within the deceased person's pension reasonable benefit limit (RBL), any amount that benefits the dependants of the deceased person is not taxed.

A dependant of the deceased is a person who, at the time of death or at the time the payment was made, was a surviving spouse or de facto spouse, an ex-spouse, a child of the deceased under 18 years of age, a person financially dependent on the deceased or a person with whom the deceased had an interdependency relationship. If you need to know what 'financially dependent' or 'interdependency relationship' means, phone the Superannuation Infoline (see the inside back cover).

The RBL is the maximum amount of superannuation and similar benefits that is taxed at concessional or reduced rates. The RBL limits for the 2006–07 income year are:

TABLE 15

Lump sum RBL	Pension RBL
$678,149	$1,356,291

That part of the death benefit ETP that exceeds the deceased person's pension RBL is called the 'excessive component'.

The Tax Office will determine if some or all of the death benefit ETP is within the pension RBL of the deceased.

If some or all of the ETP death benefit is above the pension RBL, we issue a written RBL determination, which shows part or all of the payment as an excessive component. If the ETP has an excessive component, also attach the RBL determination to the trust tax return.

If all the beneficiaries are dependants, show any excessive component at **O**. If all the beneficiaries are non-dependants, or if there are dependent and non-dependent beneficiaries, phone the Superannuation Infoline (see the inside back cover) for more information to calculate the assessable amount.

The payer of a death benefit ETP should generally provide an ETP payment summary for a death benefit ETP and this is attached to the trust tax return. If you have an ETP payment summary showing that amounts were withheld from the payment, attach a statement to the tax return indicating the amount that was withheld. Print **YES** in the **Have you attached any 'other attachments'?** box at the top of page 1 of the tax return. If you require a death benefit ETP payment summary or further explanation of the form phone the Superannuation Infoline.

For more information on ETPs, see *Eligible termination payments: a practical guide for superannuation funds* (NAT 2699) available on our website.

Excepted net income

Show at **Excepted net income** and include at **O** the excepted net income received, excluding net capital gains that are included at **A** **Net capital gain** item **18**.

Also attach a statement to the trust tax return:
- detailing the distribution of excepted income to each beneficiary, and
- listing each beneficiary who is considered to be an excepted person, giving supporting reasons.

Print **YES** in the **Have you attached any 'other attachments'?** box at the top of page 1 of the tax return. For an explanation of excepted income and excepted person, see appendix 10.

13 TOTAL OF ITEMS 5 TO 12

Show at item **13** the total of all Australian income. If this amount is a loss, print **L** in the box at the right of the amount.

DEDUCTIONS

14 DEDUCTIONS RELATING TO AUSTRALIAN INVESTMENT INCOME

Show at **P** the expenses incurred in earning interest and dividends.

If the partnership or trust was paid a dividend by a LIC and the dividend included a LIC capital gain amount, the partnership or trust can claim a deduction of 50% of the LIC capital gain amount. The listed investment company's dividend advice statement shows the LIC capital gain amount.

Expenses listed here that are costs associated with borrowing and servicing debt may not be allowable deductions under the thin capitalisation rules. For more information, see appendix 3. The disallowed amount reduces the amount that would otherwise go at **P**.

Deductions for the decline in value of depreciating assets used to earn interest and dividends are generally shown at **P**. However, if the partnership or trust has allocated some of these assets to a low-value pool, you may need to show deductions at **Q** item **15 Other deductions**. For more information, see appendix 6.

STS taxpayers

If the partnership or trust is continuing in the STS this year and has chosen to continue using the STS accounting method, it can claim general deductions – for example, interest expense – only when they are paid. For more information on the STS accounting method, see pages 23–24.

15 OTHER DEDUCTIONS

Show at **Q** any deductible losses and outgoings not already claimed by the partnership or trust at any other items.

If the partnership or trust is registered for GST, exclude any input tax credit entitlements for expenses incurred by the partnership or trust from the amount shown at **Q**.

STS taxpayers

If the partnership or trust is continuing in the STS this year and has chosen to continue using the STS accounting method, it can claim deductions for the following expenses only when they are paid:
- general deductions – for example, interest expense
- tax-related expenses, and
- expenses for repairs.

For more information on the STS accounting method, see pages 23–24.

Losses and outgoings

You can claim a deduction for losses and outgoings if they are incurred in gaining or producing assessable income, or necessarily incurred in carrying on a business for the purpose of gaining or producing such income.

However, under section 25-90 of the ITAA 1997 a partnership or trust may be able to claim a deduction for costs incurred in obtaining or servicing debt finance if the costs are incurred in earning foreign source income which is non-assessable non-exempt income under section 23AI, 23AJ or 23AK of the ITAA 1936. The amount of the deduction is subject to any reduction required by the thin capitalisation rules.

Debt deductions (such as interest and borrowing costs) for assessable foreign source income that are **not** attributable to an overseas permanent establishment of the taxpayer are not quarantined to assessable foreign source income. Therefore, you can deduct these expenses against assessable income of the partnership or trust, subject to any reduction required under the thin capitalisation rules. Include the deduction for these expenses at **Q**. Do not include them at item **20 Other assessable foreign source income** or any other item.

You cannot claim a deduction for the following:
- losses or outgoings of capital or of a capital, private or domestic nature, except where special provision is made in the income tax law
- expenses incurred in gaining or producing exempt or non-assessable non-exempt income – except certain debt deductions under section 25-90 of the ITAA 1997
- penalties or fines
- income tax liabilities
- entertainment – except in very limited circumstances, and
- costs associated with borrowing and servicing debt to the extent that a deduction is denied under the thin capitalisation rules. For more information, see appendix 3. The disallowed amount reduces the amount that would otherwise go in **Q**.

Interest expenses

T

If a trustee borrows money to pay distributions to a beneficiary, the trustee will only be able to take into account the interest expenses incurred on those borrowed funds when calculating the net income of a trust estate in certain circumstances. See *Taxation Ruling TR 2005/12 – Income tax: deductibility of interest expenses incurred by trustees on funds borrowed in connection with the payment of distributions to beneficiaries* for more information. In order to be deductible, the interest expense must be sufficiently connected with the assessable income earning activity of the trust. There will be sufficient connection if the purpose of the trustee borrowing funds is to refinance a returnable amount. Trustees who have incurred interest expenses on monies borrowed to pay distributions to beneficiaries should seek advice either from their professional advisers or the Tax Office.

Tax-related expenses

Show at **Q** any expenses incurred by the partnership or trust in the management of its tax affairs.

Expenses incurred include:
- the cost of attending a Tax Office audit
- tax planning
- expenditure on your income tax affairs – that is, a fee or commission for professional advice where the advice is provided by a registered tax agent, or a barrister or solicitor
- an interest charge imposed by the Tax Office on taxes and penalties not paid on time, and
- a penalty for underestimating a varied GST instalment or PAYG instalment.

Show a deduction for the decline in value of a depreciating asset used for the management of the tax affairs of the partnership or trust at **Q**. For more information about working out decline in value, see appendix 6.

You cannot claim a deduction for costs for any offence-related matter – for example, the cost of defending a tax prosecution.

If expenditure allowed or allowable as a deduction is recouped, include the amount recouped in assessable income in the year of recoupment.

Losses on the disposal of traditional securities

Show at **Q** any non-capital losses incurred upon the disposal or redemption of a traditional security which are deductible under section 70B of the ITAA 1936. For more information about gains and losses on traditional securities, including traditional securities that are convertible notes or exchangeable notes, see *You and your shares 2007*.

Payment of premiums to a non-resident insurer

You cannot claim a deduction for insurance premiums paid to a non-resident of Australia for the insurance of property situated in Australia or of an event which can happen only in Australia, unless arrangements have been made to the satisfaction of the Tax Office for the payment of any tax payable or that may become payable in relation to the premium. Keep a record of the details supporting any claim for a deduction.

Gifts

For the partnership or trust to claim a deduction for gifts and donations made to an organisation, the organisation must be a deductible gift recipient (DGR). DGRs are endorsed by the Tax Office or specifically named in the income tax law (including prescribed private funds). Some of the types of bodies that can be endorsed as DGRs are public benevolent institutions, school building funds and approved overseas aid funds. To check whether a recipient of a gift or donation is a DGR as listed on the Australian Business Register, visit the **abn.business.gov.au** website or phone the Tax Office's non-profit infoline on **1300 130 248**.

Gifts of property as well as money may be deductible. This applies to gifts of property valued by the specific valuers at more than $5,000, and to property purchased by the donor during the 12 months before the gift was made. If claiming a donation for property valued at more than $5,000, or under the Cultural Gifts Program, or to National Trust bodies, keep the required valuation certificates.

A partnership or trust may elect to spread deductions over five income years or less where the gift is money, property gifted under the Cultural Gifts Program, some heritage property or property valued by the Australian Valuation Office at more than $5,000. For more information about these elections, see question **D8** in *TaxPack 2007*.

Deductions for political contributions and gifts

Taxpayers, including partnerships and trusts, will be able to claim up to $1,500 for contributions or gifts to registered political parties and up to $1,500 for contributions or gifts to independent members of or candidates for an Australian parliament (state or federal) or legislative assembly.

The contribution can be money or property that the taxpayer purchased during the 12 months before making the contribution or gift and must be at least $2 in value. Taxpayers can claim up to a maximum of $3,000 per income year for political contributions and gifts – the total amount that can be claimed each year is limited to $1,500 in respect of political parties and a separate limit of $1,500 in respect of independent candidates or members.

> **!** NOTE
> Show at **Q** the deduction for gifts to DGRs and contributions and gifts to political parties and independents. The deduction cannot add to or create a tax loss. You may need to reduce the claim where the amount at item **17 Net Australian income or loss** is a loss.

Subscriptions

Show at **Q** expenses incurred for subscriptions paid to:

- trade, business or professional associations
- other organisations where the subscription is incurred in the production of assessable income, and
- journals, newspapers or magazines where these relate to the production of assessable income.

Do not claim for fees paid to acquire or retain membership of a sporting or social club or a political party.

Deductions for depreciating assets in a low-value pool

If the partnership or trust has allocated depreciating assets used for different income-producing purposes to its low-value pool – for example, some assets that are used for producing rental income and others that are used in carrying on a business – show the low-value pool deduction at **Q**. For more information, see appendix 6.

Film industry incentives

Show at **Q** expenses incurred by a trust for the cost of shares in the company that has been granted the licence (to raise concessional capital) under the *Film Licensed Investment Company Act 2005*. You must claim your deduction in the income year in which the shares are fully paid and issued.

For a partnership, deductible expenses for subscriptions in shares in the Film licensed investment company (FLIC) are claimed proportionately in each partner's individual tax return.

Deductions are only currently available for the income years ending 30 June 2006 and 30 June 2007.

For more information about the conditions under which concessions are available to a trust that invests or contributes money to the production of a qualifying Australian film, see *Australian film industry incentives 2007* (NAT 0954–6.2007).

For partnerships, any relevant expenditure is shown on each partner's own tax return. For more information, see *Australian film industry incentives 2007*.

16 TOTAL OF ITEMS 14 AND 15

Show at item **16** the total deductions relating to Australian income.

17 NET AUSTRALIAN INCOME OR LOSS

Show at **$** the net income or loss relating to Australian income – that is, total Australian income minus total deductions. If this amount is a loss, print **L** in the box at the right of the amount.

18 CAPITAL GAINS **T**

Did you have a CGT event or receive a capital gain from a trust during the year?

If the trust had a CGT event happen during the income year, or if the trust received a distribution of a capital gain from another trust, print **Y** for yes at **G**. Otherwise, print **N** for no at **G**.

Generally a trust makes a capital gain or capital loss if certain events or transactions – called CGT events – happen. Most commonly, CGT events happen to a trust's CGT assets – for example, the disposal of a CGT asset – while other CGT events relate directly to capital receipts (capital proceeds).

An Australian resident makes a capital gain or capital loss if a CGT event happens to any of its worldwide CGT assets. Foreign residents are only subject to CGT if a CGT event happens to assets which have the necessary connection with Australia if the CGT event happens before 12 December 2006 or that are taxable Australian property if the CGT event happens on or after 12 December 2006.

Foreign trusts and CGT events on or after 12 December 2006

A capital gain or capital loss from a CGT event may be disregarded if you are a foreign resident or the trustee of a foreign trust just before a CGT event happens and the CGT event happens in relation to a CGT asset that is not taxable Australian property (see section 855-10 of the ITAA 1997).

A CGT event in relation to an interest in a fixed trust held by a non resident may not be subject to CGT if at least 90% of the assets of the fixed trust by market value are not taxable Australian property at the time of the CGT event (see section 855-40).

For further information, see the *Guide to capital gains tax 2007*.

CGT worksheets and schedules

If the trust ceases to hold or to use a depreciating asset and the asset was used for both taxable and non-taxable purposes, a CGT event may happen to the asset. A capital gain or capital loss attributable to that non-taxable use may arise.

For more information about CGT events, see the *Guide to capital gains tax 2007* which includes:

- a capital gain or loss worksheet for calculating a capital gain or capital loss for each CGT event
- a CGT summary worksheet for calculating the trust's net capital gain or capital loss
- a CGT schedule.

The worksheets will help you calculate a trust's net capital gain or capital loss for the income year and complete the CGT labels on the trust tax return. You do not have to complete the worksheets. However, if you do, do not attach them to the trust tax return but keep them with the trust's tax records.

Complete a CGT schedule and attach it to the trust tax return if the trust had:

- total current year capital gains for the income year greater than $10,000, or
- total current year capital losses for the income year greater than $10,000.

However, if the trust was a subsidiary member of a consolidated group at the end of the income year and has completed **Z2** **Consolidated subsidiary member** item **2**, you do not need to complete a CGT schedule.

Net capital gain

The trust's net capital gain is the total capital gains it made for the income year reduced by current year capital losses, prior year net capital losses, CGT discount and any other relevant concessions. Relevant concessions are:

- the small business 50% active asset reduction
- the small business retirement exemption
- the small business rollover relief.

Show at **A** the amount of the trust's net capital gain. If you have used the CGT summary worksheet or CGT schedule this is the amount at:

- **G** at **part H** of the CGT summary worksheet in the *Guide to capital gains tax*, or
- **G** at **part H** of the CGT schedule.

For more information on how to calculate the trust's net capital gain, see the *Guide to capital gains tax 2007*. For information about the small business concessions, see the *Guide to capital gains tax concessions for small business* (NAT 8384) and *Advanced guide to capital gains tax concessions for small business* (NAT 3359), available on our website.

> **!** NOTE
>
> Record any unapplied net capital losses at item **24**. The trust may need to complete a losses schedule. For more information, see the *Losses schedule instructions 2007*.

Excepted net capital gain of a minor

Include the amount of any excepted net capital gain of a minor at **A** and attach a statement to the trust tax return:

- detailing the distribution of excepted net capital gains to each beneficiary, and
- listing each beneficiary who is considered to be an excepted person, giving supporting reasons.

Print **YES** in the **Have you attached any 'other attachments'?** box at the top of page 1 of the tax return.

For an explanation of excepted income and excepted person, see appendix 10.

FOREIGN INCOME

19 ATTRIBUTED FOREIGN INCOME

For more information on the calculation of the amounts shown at **M**, **U** and **X**, see the *Foreign income return form guide* (NAT 1840), available on our website. For more information on the calculation of the amount shown at **Y**, see the *Foreign investment funds guide* (NAT 2130), available on our website.

> **!** NOTE
>
> If the partnership or trust was a subsidiary member of a consolidated group at any time during the income year and has completed **Z2** **Consolidated subsidiary member** item **2**, a *Schedule 25A 2007* is not required.

Did you have either a direct or indirect interest in a foreign trust, controlled foreign company or transferor trust?

Direct or indirect interests in a controlled foreign company or a foreign trust are taken to have the same meaning as set out in Division 3 of Part X of the ITAA 1936.

A partnership or trust has an interest in a transferor trust if the partnership or trust has ever made, or caused to be made, a transfer of property or services to a non-resident trust. Transfer of property and services is defined in section 102AAB of the ITAA 1936.

Sections 102AAJ and 102AAK of the ITAA 1936 provide guidance in relation to whether there was a transfer, or a deemed transfer, of property or services to a non-resident trust.

If the answer to this question is yes, print **Y** at **S** and complete section B of *Schedule 25A 2007*, together with any other relevant part or schedule, and attach the completed *Schedule 25A 2007* to the partnership or trust tax return.

If the answer to this question is no, print **N** at **S**.

For more information, see the *Schedule 25A instructions 2007* (NAT 2639–6.2007).

Did you have an interest in a foreign investment fund (FIF) or a foreign life assurance policy (FLP)?

If the answer is yes, print **Y** at **T** and complete section B of *Schedule 25A 2007*, together with any other relevant part or schedule, and attach the completed *Schedule 25A 2007* to the partnership or trust tax return.

If the answer is no, print **N** at **T**.

Interest in a FIF or FLP has the same meaning as set out in section 483 of the ITAA 1936.

Listed country

Show at **M** the amount of gross attributed foreign income from controlled foreign entities and transferor trusts of listed countries. Listed countries are set out in Part 1 of Schedule 10 to the Income Tax Regulations 1936.

Attributed foreign income is the income attributed to the taxpayer from controlled foreign entities, calculated in accordance with Division 7 of Part X of the ITAA 1936, and includes an amount grossed-up under section 392 of the ITAA 1936, as appropriate, to the extent of any foreign taxes paid.

Also show at **M** the amount of income attributed from a transferor trust that is a listed country trust estate, calculated in accordance with Subdivision D of Division 6AAA of the ITAA 1936.

A listed country trust estate is defined in section 102AAE of the ITAA 1936.

Section 404 country

Show at **U** the amount of attributed foreign income from controlled foreign entities in section 404 countries. Section 404 countries are listed in Part 2 of Schedule 10 to the Income Tax Regulations 1936.

Also show at **U** the amount of income attributed from a transferor trust if the entire income and profits of the trust are subject to tax in a section 404 country. Do not include the amount if it is shown at **M**.

Unlisted country

Show at **X** the amount of attributed foreign income from controlled foreign entities in unlisted countries. Unlisted countries are countries that are not listed in Schedule 10 to the Income Tax Regulations 1936.

Also show at **X** the amount of income attributed from a transferor trust if the amount has not been shown at **M** or **U**.

FIF/FLP income

Show at **Y** the amount of net attributed foreign income from foreign investment funds (FIFs) and foreign life assurance policies (FLPs). The terms FIF and FLP have the same meaning as set out in sections 481 and 482 of the ITAA 1936 respectively. Attributed foreign income is the income attributed to the taxpayer from FIFs or FLPs, calculated in accordance with Subdivisions B, C or D (for FIFs) and Subdivisions E or F (for FLPs) of Division 18 of Part XI of the ITAA 1936, as appropriate.

20 OTHER ASSESSABLE FOREIGN SOURCE INCOME

T Complete a losses schedule if the trust claims a deduction for foreign source losses, has current year foreign source losses, has foreign source losses carried forward to later income years, claims a deduction for prior year controlled foreign company (CFC) losses, has current year CFC losses or has CFC losses carried forward to later income years.

If the partnership or trust received assessable dividends directly or indirectly from a New Zealand franking company, the dividends (including any supplementary dividends) must be declared as assessable foreign income even if dividend withholding tax was deducted in New Zealand.

The partnership or trust can claim a foreign tax credit for any New Zealand dividend withholding tax paid on the dividend. See the *Foreign income return form guide* to work out whether the dividend is assessable income.

If the dividend from a New Zealand company is assessable income, then the amount of the Australian franking credit attached to the dividend is also assessable income. Subject to the holding period rule and related payments rule, the partnership or trust can claim a franking tax offset equal to the amount of the Australian franking credit included in its assessable income. For more information, see appendix 1.

NOTE

- The dividend distribution may also include an amount of New Zealand imputation credits. **Australian residents cannot claim any amounts of New Zealand imputation credits**.
- All dividend income, deductions and foreign tax paid must be converted into Australian dollars. The amount of Australian franking credits should already be expressed in Australian dollars.

Gross foreign source income

Show at **B** the gross amount of assessable income derived from foreign sources, including amounts distributed from other partnerships and trusts and New Zealand dividends and supplementary dividends. Include any foreign tax paid on that income.

Do not include:

- any income which is exempt from tax in Australia or treated as non-assessable non-exempt income under sections 23AI and 23AK of the ITAA 1936
- any amount referable to New Zealand imputation credits
- any amount referable to Australian franking credits attached to dividends from a New Zealand franking company. Show these amounts at **D** **Australian franking credits from a New Zealand company**
- income already shown at item **19 Attributed foreign income**
- any foreign source capital gains or capital losses.

NOTE

T Include foreign source capital gains or capital losses when calculating the amount at item **18 Capital gains**.

P Each partner must include their share of any foreign source capital gains or capital losses on their own tax return.

In referring to 'foreign source capital gains' an Australian resident partner or trust makes a capital gain if a CGT event happens to any of their worldwide CGT assets.

A partner or trust that is not an Australian resident makes a capital gain, generally speaking, if their CGT asset has the necessary connection with Australia just before the CGT event happens.

Net foreign source income

Show at **V** the net income derived from foreign sources.

The amount at **V** is the gross amount shown at **B**, less any deductions allowable to the partnership or trust against that income. Debt deductions (such as interest and borrowing costs) that relate to assessable foreign source income and that are **not** attributable to an overseas permanent establishment of the taxpayer are not applied against assessable foreign source income for the purpose of calculating net foreign income or identifying a foreign loss. Do **not** claim these amounts here – include them at item **15 Other deductions**.

Do not show a loss at **V**.

If the assessable foreign income for a particular class of assessable foreign income is exceeded by the sum of foreign income deductions for that class, the excess is carried forward for offset against future foreign source assessable income of the same class and for trusts is shown on the losses schedule. Subsection 160AFD(8) sets out the classes of assessable foreign income.

> **!** NOTE
>
> Foreign losses are quarantined within the partnership or trust, and cannot be distributed to the respective partners or beneficiaries. For more information for partnerships, see *Taxation Determination TD 92/113 – Income tax: foreign income: is a foreign loss quarantined within a partnership?*.

Prior year foreign source losses

If the assessable foreign income for a particular class of assessable foreign income exceeds the sum of foreign income deductions for that class, the partnership or trust can deduct any allowable foreign source losses for that class brought forward from prior years. The deduction cannot exceed the amount of net foreign income for that class.

T If a trust is deducting any foreign source losses from its assessable foreign income, the trust must complete a losses schedule and attach it to the trust tax return.

Under the trust loss provisions of Schedule 2F to the ITAA 1936, certain rules have to be satisfied by a trust before it can use prior year unrecouped foreign losses. For more information about the trust loss provisions see appendix 8.

> **!** NOTE
>
> **Allowable prior year Australian source losses**
>
> Under section 79DA of the ITAA 1936 the trust can make an election to use allowable prior year Australian source losses to offset net foreign source income. Do not include prior year Australian source losses at this item. Show them at item **22 Tax losses deducted**.

Foreign tax credits

Show at **Z** the amount of any foreign tax credit claimed against foreign source income.

T For trusts, also show foreign tax credits for foreign sourced capital gains at **Z**.

P Partnerships do not include foreign tax credits for capital gains at **Z**. Each partner must include their share on their own tax return.

To calculate the amounts of net foreign income and foreign tax credit allowable, see chapter 3 of the *Foreign income return form guide*.

For more information on how to calculate the amount of net foreign source income and foreign tax credit that each partner or beneficiary is entitled to, use worksheet 6 on page 77.

Australian franking credits from a New Zealand company

Show at **D** the amount of Australian franking credits that are included in the net income of the partnership or trust because of franked dividends received from a New Zealand franking company directly or indirectly through another partnership or trust.

The amount shown at **D** is not necessarily the total amount that can be claimed by the trustee, each beneficiary or partner. See appendix 1 for more information.

21 TOTAL OF ITEMS 17 TO 20

Show at item **21** the total of the amounts shown at items **17** to **20**.

If this amount is a net loss, print **L** in the box at the right of the amount. Do not include prior year Australian or foreign source losses here.

T If the amount shown at item **21** for a trust is a net income amount and the trust is able to deduct the whole or part of prior year Australian source losses in the 2006–07 income year under section 36-15 of the ITAA 1997, show the amount of prior year Australian source losses to be deducted at item **22 Tax losses deducted**.

22 TAX LOSSES DEDUCTED

Show at **C** tax losses from earlier income years, which are deductible in the 2006–07 income year under section 36-15 of the ITAA 1997. Exclude:

- foreign source losses – foreign source losses are included at item **20 Other assessable foreign source income**
- the film component of any tax loss (film loss) – a film loss is shown, to the extent permissible, at item **15 Other deductions**. Film losses can only be deducted from net exempt film income or net assessable film income. See Subdivision 375-G of the ITAA 1997.

> **NOTE**
>
> Complete a losses schedule if the trust is a listed widely held trust (as defined in Schedule 2F to the ITAA 1936) and the trust is required to pass the same business test in order to claim a deduction for losses in the 2006–07 income year or will be required to pass that test in respect of losses being carried forward to later income years. See Subdivision 269-F of Schedule 2F to the ITAA 1936.
>
> For more information on the requirements for lodging the losses schedule, see the *Losses schedule instructions 2007*.

The following information will help you to complete **C**:

- The total of any tax losses shown at **C** cannot exceed the amount of net income shown at item **21 Total of items 17 to 20**.
- Under the provisions of Schedule 2F to the ITAA 1936, conditions effective from 9 May 1995 have to be satisfied by a trust before it can claim a deduction under section 36-15 of the ITAA 1997 for the whole or part of an earlier income year loss. Some trusts may be required to work out their net income and tax loss for a year in a special way under Division 268 of Schedule 2F. For more information about the trust loss provisions, see appendix 8.
- Complete item **24 Losses information** if the income injection test under the trust loss provisions prevents the trust – including a family trust – from fully claiming a deduction for tax losses of an earlier income year in the 2006–07 income year. See Division 270 of Schedule 2F to the ITAA 1936.
- If the trust has net exempt income and an excess of assessable income over total deductions – other than tax losses of earlier income years – deduct the tax loss from the net exempt income and then deduct any remaining amount of tax loss from the excess assessable income. See subsection 36-15(3) of the ITAA 1997.
- If the trust has net exempt income and an excess of total deductions – other than tax losses of earlier income years – over assessable income, subtract the excess deductions from the net exempt income and then deduct the tax loss from any net exempt income that remains. See subsection 36-15(4) of the ITAA 1997. A trust's net exempt income is calculated in accordance with section 36-20 of the ITAA 1997.
- Losses from primary production may generally be carried forward indefinitely until deducted, irrespective of the year in which the loss was incurred.
- You cannot claim a deduction for non-primary production losses incurred in income years up to and including the 1988–89 income year. Non-primary production losses incurred in the 1989–90 and later income years may be carried forward indefinitely until deducted.

Record keeping

Keep a record of any claims for undeducted tax losses of earlier income years. The trust must keep a record of its tax losses and account for any adjustments including those made by the Tax Office. If a trust incurs tax losses, you may need to keep records longer than five years from the date when the losses were incurred. Generally tax losses incurred this year can be carried forward indefinitely, until they are applied by recoupment. When applied, the loss amount is a figure that leads to the calculation of the trust's net income (and beneficiary's taxable income) in that year. It is in the trust's interest to keep records substantiating this year's losses until the amendment period for the beneficiary's assessment for the recoupment year in which the losses are fully applied has lapsed (generally up to four years from the date of that assessment). Complete item **24 Losses information**.

See *TD 2007/2 - Income tax: should a taxpayer who has incurred a tax loss or made a net capital loss for an income year retain records relevant to the ascertainment of that loss only for the record retention period prescribed under income tax law?*

Beneficiaries with no interest in trust capital

A life tenant is a beneficiary with an interest in the income of the trust for the duration of their life, but with no interest in the capital of the trust.

If the trust includes a beneficiary who is a life tenant or a beneficiary with no interest in the capital of the trust, you cannot claim a deduction for tax losses of earlier income years in calculating the share of those particular beneficiaries in the net income of the trust if the tax losses of previous years are required to be met out of corpus.

EXAMPLE 13

The XYZ trust has tax losses of earlier income years of $2,000. Its net income is $20,000 – excluding losses of earlier income years. There are two presently entitled beneficiaries of the trust, each with a 50% interest in the income of the trust. The trust deed requires tax losses to be met out of corpus.

One beneficiary is a life tenant. The other has an interest in the income and the capital of the trust.

In calculating the net income of the trust for the life tenant's share, no account is taken of earlier year losses. The life tenant's share of the net income of the trust for tax purposes is 50% of $20,000 – that is, $10,000.

Conversely, in calculating the other beneficiary's share of the net income of the trust, earlier year losses are taken into account. That beneficiary's share of the net income of the trust for tax purposes is 50% of ($20,000 – $2,000) – that is, $9,000.

23 TOTAL NET INCOME OR LOSS

The amount shown at item **23** must be equal to the amount shown at item **21 Total of items 17 to 20**, less any amount shown at item **22 Tax losses deducted**.

If the amount shown at item **21** was a net loss amount, the total net loss amount shown at item **23** is the same. If the amount shown at item **21** was a net income amount, the amount shown at item **23** cannot be a loss since the total amount which can be claimed as a deduction at item **22** must not exceed the amount of net income shown at item **21**.

Print **L** in the box at the right of the amount, if the amount at item **23** is a loss.

Do NOT include foreign source losses at item **23**. Take these into account, to the extent permitted, at item **20 Other assessable foreign source income**.

24 LOSSES INFORMATION

Do not include carry forward foreign source losses or carried forward film losses at this item. Include foreign source losses carried forward to later years at **part F** of the losses schedule.

> **NOTE**
> If the total of the trust's tax losses and net capital losses carried forward to later income years is greater than $100,000, complete a losses schedule and attach it to the trust tax return.

Tax losses carried forward to later income years

Show at **U** the undeducted amount of tax losses incurred by the trust that can be carried forward to the 2007–08 income year under section 36-15 of the ITAA 1997.

Net exempt income reduces a current year tax loss and, to the extent of any excess, reduces prior year tax losses. Tax losses carried forward may be affected by the commercial debt forgiveness provisions – see appendix 4.

If the income injection test in Division 270 of Schedule 2F to the ITAA 1936 prevents the trust from fully claiming a deduction in the 2006–07 income year, include the amount which the trust cannot claim in the 2006–07 income year under Division 270 in the amount shown at **U**, and fully include the amount of the 'scheme assessable income' within the meaning of Division 270 in the amount of total net income of the trust shown at item **23 Total net income or loss**.

If the trust is required to complete a losses schedule, the amount of the tax losses shown at **U** in **part A** of that schedule must be the same as the amount shown at **U** on the trust tax return.

Do not include any net capital losses to be carried forward to later income years at **U** – show them separately at **V Net capital losses carried forward to later income years** and in the CGT schedule, if a schedule is required.

Net capital losses carried forward to later income years

Show at **V** the total of any unapplied net capital losses from collectables and unapplied net capital losses from all other CGT events. This information is calculated or transferred from:

- **V** in part I of the CGT summary worksheet in the *Guide to capital gains tax 2007*, or
- **H** and **I** in part I of the CGT schedule, if a schedule is required.

For more information, see the *Guide to capital gains tax 2007*.

If the trust is required to complete a losses schedule, the amount shown at **V Net capital losses carried forward to later income years** in **part A** of that schedule must be the same as the amount shown at **V** on the trust tax return.

25 LANDCARE AND WATER FACILITY TAX OFFSET

> **NOTE**
> You cannot claim the landcare and water facility tax offsets for expenditure incurred after the 2000–01 income year.

Landcare and water facility tax offset brought forward from prior years

Show at **G** the total of any landcare and water facility tax offsets carried forward and available to be applied in this income year.

The landcare and water facility tax offset is a carry-forward, non-refundable tax offset. This means you can carry forward indefinitely any excess tax offset, after tax liabilities are met, to use against future income tax liabilities. Before the tax offset can be applied in a later income year, it must be successively reduced by any unused net exempt income derived in the year the tax offset arose and any subsequent income year – providing you had a taxable income in that year. The tax offset is reduced by 30 cents for each dollar of net exempt income for 2000–01 and later income years.

The amount to show at **G** should take this reduction into account.

26 OVERSEAS TRANSACTIONS

Was the aggregate amount of your transactions or dealings with international related parties (including the value of any property/service transferred or the balance of any loans) greater than $1 million?

If the answer to this question is no, print **N** at **W**.

If the answer is yes, print **Y** at **W** and complete section A of *Schedule 25A 2007* together with any other relevant part of the schedule. Attach the completed schedule to the tax return.

However, if the partnership or trust was a subsidiary member of a consolidated group at any time during the income year and has completed **Z2 Consolidated subsidiary member** item **2**, you do not need to complete a schedule 25A.

The aggregate amount of the partnership's or trust's transactions or dealings is the total amount of all dealings, whether on revenue or capital account, including property transfers or service provision, and includes the balance of any loans or borrowings outstanding with international related parties.

International related parties are persons, including permanent establishments, who are parties to international dealings that can be subject to Division 13 of the ITAA 1936 and/or the business profits article, or associated enterprises article, of a relevant double tax agreement. The term includes the following:

- any overseas entity or person who participates directly or indirectly in the management, control or capital of the partnership or trust
- any overseas entity or person in respect of which the partnership or trust participated directly or indirectly in the management, control or capital
- any overseas entity or person in respect of which persons who participate directly or indirectly in its management, control or capital are the same persons who participate directly or indirectly in the management, control or capital of the partnership or trust
- a permanent establishment (PE) and its head office
- two PEs of the same person.

'Participates' includes a right of participation, the exercise of which is contingent on an agreed event occurring. 'Person' has the same meaning as in subsection 6 (1) of the ITAA 1936 and section 995-1 of the ITAA 1997.

The type of dealings or transactions that will require the partnership or trust to complete part A of *Schedule 25A 2007* are its dealings with related parties as above, such as an overseas holding company, overseas subsidiary, overseas PE of the entity, or non-resident trust in which the entity has an interest. These dealings or transactions may be the provision or receipt of services, or transactions in which money or property has been sent out of Australia, or received in Australia from an overseas source during the income year. The dealings may also include transfer of tangible or intangible property, provision or receipt of services, or the provision or receipt of loans or financial services.

If money or property is not actually sent out of Australia or received in Australia, but accounting entries are made that have the effect of money or property being transferred, this is also to be taken as an international transaction.

Non-resident beneficiaries **T**

Was any beneficiary who was not a resident of Australia at any time during the income year, 'presently entitled' to a share of the income of the trust?

If the answer to this question is no, print **N** at **A**. If the answer is yes, print **Y** at **A**, and ensure that the details of the beneficiaries and the assessable amounts of net income to which each beneficiary – who is a non-resident at the end of the income year – is presently entitled are entered under **Non-resident beneficiary additional information** in **J** and **K** at the bottom of item **59 Statement of distribution**.

If a non-resident beneficiary is presently entitled to trust income, the trustee pays tax on that income. The trustee, at the time of distribution, deducts the tax payable and remits it to the Tax Office.

Attach a statement for each beneficiary who was a non-resident of Australia at any time during the income year, and who was presently entitled to income of the trust, showing:

- full details of any distribution to the beneficiary, including amounts of interest, royalties, franked dividends and unfranked dividends
- if withholding tax has been paid and remitted to the Tax Office from the distribution, the amount of such distribution and the withholding tax paid
- name and residential address
- if any change occurred in the residency status of the beneficiary during the income year, details of when the beneficiary became or ceased to be a resident
- if from any distribution – other than interest, dividend or royalty income subject to non-resident withholding tax – made to the beneficiary, tax has been deducted and remitted to the Tax Office, the amount of the credit claimed for remittances made
- if it is contended that all or part of the non-resident beneficiary's share of the income included income of the trust derived outside Australia and while the beneficiary was not a resident:

- the beneficiary's share of that income
- the basis of the contention that the beneficiary is not a resident of Australia.

Also provide evidence that:

- where necessary, approval has been given for the transfer of amounts overseas
- if no amounts have been transferred overseas, the beneficiary's share of income has been applied for the benefit of the beneficiary or otherwise dealt with on the behalf of the beneficiary
- the beneficiary has been notified of the entitlement.

Amount of tax spared foreign tax credits

Show at **Q** the amount of foreign tax credits relating to foreign tax forgone under an investment incentive provided by a foreign government, if the tax forgone is deemed to have been paid for the purpose of Australia's foreign tax credit rules. See subsection 6AB(5) of the ITAA 1936.

TRANSACTIONS WITH SPECIFIED COUNTRIES

(1) Did you send any funds or property to, or receive any funds or property from any of the countries listed below? This includes sending or receiving funds or property indirectly – for example, through another entity or country.

(2) Do you have the ability to control the disposition of any funds, property, investments, or any other assets located in any of the countries listed below? This includes:

a. funds or assets that may be located elsewhere but are controlled or managed from one of the countries listed below, and

b. where you have an expectation that you are able to control the disposition of the funds or assets, or you have the capacity to control the disposition indirectly – for example, through associates.

Print **Y** for yes or **N** for no at **C**.

The specified countries are as follows:

Andorra	Liechtenstein
Anguilla	Malta
Antigua & Barbuda	Marshall Islands
Aruba	Mauritius
Bahamas	Monaco
Bahrain	Montserrat
Belize	Nauru
Bermuda	Netherlands Antilles
British Virgin Islands	Niue
Cayman Islands	Panama
Cook Islands	Samoa
Cyprus	San Marino
Dominica	Seychelles
Gibraltar	St Kitts & Nevis
Grenada	St Lucia
Guernsey	St Vincent & the Grenadines
Isle of Man	Turks and Caicos Islands
Jersey	US Virgin Islands
Labuan	Vanuatu
Liberia	

INTEREST

T

Section 128FA exempt interest paid

Show at **D** the amount of any interest paid to non-residents that is exempt from interest withholding tax under section 128FA of the ITAA 1936. The interest withholding tax exemption is available to eligible unit trusts and companies carrying on business in Australia for interest paid on widely offered debentures under certain conditions. The definition of eligible unit trust incorporates certain public unit trusts, corporate unit trusts and most public trading trusts. Unit trusts are also able to access the exemption if all their units are held by specified unit holders.

Interest to financial institution exempt from withholding under a DTA

Show at **I** the total amount of any interest paid to United States (US) and United Kingdom (UK) financial institutions that was exempt from withholding tax because of Article 11(3)(b) of Australia's double tax agreements (DTAs) with those countries.

DTA country

At **Y** print the three letter country code **USA** if the payments were to US financial institutions or **GBR** if to UK financial institutions. Print the code for the country where the most exempt interest was paid if payments were made to financial institutions in both countries.

27

There is no item **27** for 2007. Go to item **28**.

28 PERSONAL SERVICES INCOME

Does your income include an individual's personal services income?

Personal services income (PSI) is income that is mainly a reward for an individual's personal efforts or skills (or would mainly be such a reward if it was derived by the individual).

A partnership or trust may derive income which includes the PSI of one or more individuals. Examples of PSI include:

- income for the services of a professional practitioner in a sole practice
- income derived under a contract which is wholly or principally for the labour or services of an individual
- income for the exercise of professional skills by a professional sportsperson or entertainer
- income for the exercise of personal expertise by a consultant.

PSI does not include income that is mainly:

- for supplying or selling goods – for example, from retailing, wholesaling or manufacturing
- generated by an income-producing asset – for example, from operating a bulldozer
- for granting a right to use property – for example, the copyright to a computer program, or
- generated by a business structure – for example, a large accounting firm.

If the income of the partnership or trust includes an individual's PSI, print **Y** for yes at **N**. Otherwise print **N** for no at **N**.

If you printed **Y** at **N**, complete and attach a PSI schedule to the partnership or trust tax return. The *Personal services income schedule 2007* has a more detailed explanation of the PSI rules.

Special rules for the income tax treatment of certain PSI earned by contractors and consultants began on 1 July 2000.

If the partnership or trust receives an individual's PSI other than in the course of conducting a personal services business, and does not promptly pay it to the individual as salary or wages:

- the net amount of PSI is attributed to the individual and is not assessable to the partnership or trust, and
- certain related expenses are not deductible under the special rules.

Expenses specifically denied include rent, mortgage interest, rates and land tax for the residence of individuals (or their associates, such as a spouse) whose efforts or skills mainly generate the PSI for the partnership or trust, the costs of a second private use car and payments of salary or wages and superannuation for associates to the extent such payments relate to non-principal work.

The denied expenses also include the total amount of the deductions allowed to the individual for a net personal services income loss. See the *Personal services income schedule 2007* for more information.

Include adjustments for PSI at **Reconciliation items** item **5**. See worksheet 1 on pages 71–72.

KEY FINANCIAL INFORMATION

29 ALL CURRENT ASSETS

Show at **F** all current assets of the partnership or trust including, cash on hand, short-term bills receivable, inventories and trade debtors as shown at item **39 Trade debtors**.

30 TOTAL ASSETS

Show at **G** all of the partnership or trust assets, including fixed, tangible and intangible assets, and all current assets as shown at item **29 All current assets**.

31 ALL CURRENT LIABILITIES

Show at **I** the total obligations payable by the partnership or trust within the coming year. Also include the amount shown at item **40 Trade creditors**.

32 TOTAL LIABILITIES

Show at **J** all of the partnership or trust liabilities, including other creditors and deferred liabilities such as loans secured by mortgage and long-term loans. Also include the amount shown at item **31 All current liabilities**.

33 PROPRIETORS' FUNDS

Show at **K** the net proprietors' funds per accounting records. The amount shown at item **30 Total assets**, less the amount shown at item **32 Total liabilities**, equals the amount shown at **K**.

If this amount is negative, print **L** in the box at the right of the amount.

BUSINESS AND PROFESSIONAL ITEMS

34 BUSINESS NAME OF MAIN BUSINESS

The business name of the main business activity should be consistent from year to year, except in the year of a name change or if it is no longer the main business.

If the business name is legally changed, send written advice of the change to the Tax Office at the time the change is made. Show the current business name on the tax return.

35 BUSINESS ADDRESS OF MAIN BUSINESS

Show the street address of the main business. This is the place where most of the business decisions are made. Ensure that you include the postcode at **A**.

> **NOTE**
> Items **36** to **38** below reflect amounts that have been calculated for tax purposes.

36 OPENING STOCK

Show at **C** the total value of all trading stock on hand at the beginning of the income year or accounting period for which the partnership or trust tax return is being prepared. The amount shown by the partnership or trust at **C** is the calculated value for income tax purposes under section 70-40, or for STS taxpayers subsection 328-295(1) of the ITAA 1997. The opening value of an item of stock must equal its closing value in the previous year. If a taxpayer did not have any trading stock in the previous year, the value of trading stock at the start of the year is zero. This might occur in the case of a new business or in the first year a taxpayer has trading stock.

Include motor vehicle floor plan stock and work in progress of manufactured goods.

Exclude any amount that represents opening stock of a business that commenced operations during the income year. Show this amount at **Expenses**, **E Cost of sales** item **5**.

37 PURCHASES AND OTHER COSTS

Show at **B** the cost of direct materials used for manufacture, sale or exchange in deriving the gross proceeds or earnings of the business.

STS taxpayers

If the partnership or trust is continuing in the STS this year and has chosen to continue using the STS accounting method, only show at **B** purchases and other costs which the partnership or trust has paid.

38 CLOSING STOCK

If the partnership or trust is eligible to enter or continue in the STS and has chosen to do so at item **3**, see the information for STS taxpayers below. Otherwise go to Non-STS businesses in the next column.

STS taxpayers

STS taxpayers only need to account for changes in the value of trading stock if:

- the value of stock on hand at the start of the income year, and
- a reasonable estimate of the value of stock on hand at the end of the income year, varies by more than $5,000.

For more information on 'reasonable estimate' visit our website or phone the Business Infoline (see the inside back cover).

STS taxpayers who wish to do so can still choose to conduct a stocktake and account for changes in the value of trading stock.

If the difference between the value of opening stock and a reasonable estimate of closing stock is more than $5,000 the partnership or trust must account for the change in the value of trading stock. Go to step 2. If the difference is not more than $5,000, go to step 1.

Step 1

If the difference referred to above is $5,000 or less and the partnership or trust chooses not to account for this difference, the closing stock value at **D** is the same as the value at **C** item **36 Opening stock**. Do not put the reasonable estimate at **D**.

Print in the CODE box at the right of **D** the code letter from **table 16** that matches the code the partnership or trust used to value closing stock in the previous year.

TABLE 16

Code	Valuation method
C	Cost
M	Market selling value
R	Replacement value

If this is the partnership's or trust's first year in business the value of the closing stock will be zero. Print **C** in the CODE box.

Step 2

If the difference referred to above is more than $5,000 or the partnership or trust chooses to account for the difference in trading stock, the closing stock values must be brought to account under section 70-35 of the ITAA 1997. See the information for non-STS businesses for instructions on how to calculate the value of closing stock.

The partnership or trust must include in the closing stock value at **D** the value of all stock on hand, regardless of whether the partnership or trust has paid for the stock.

Non-STS businesses

Show at **D** the total value of all trading stock on hand at the end of the income year or accounting period for which the partnership or trust tax return is being prepared. The amount at **D** is the value calculated for income tax purposes under section 70-45 of the ITAA 1997.

If the partnership or trust is registered for GST, the value of closing stock (other than items the supply of which was not a taxable supply) should not include an amount equal to the input tax credit that would arise if the partnership or trust had acquired the item solely for business purposes at the end of the income year. Input tax credits do not arise for some items of trading stock, such as shares.

Include motor vehicle floor plan stock and work in progress of manufactured goods.

Exclude any amount that represents closing stock of a business that ceased operations during the income year. Show this amount at **Total business income** item **5**.

Print in the CODE box the code from **table 17** indicating the method used to value closing stock for income tax purposes. If you use more than one method, use the code applicable to the method representing the greatest value.

TABLE 17

Code	Valuation method
C	Cost
M	Market selling value
R	Replacement value

You can use different methods of valuation to value the same item of trading stock in different income years, and you can value similar items using different methods in the same income year.

However, the opening value of an item in a particular income year must equal the closing value for that item in the previous income year. The partnership or trust cannot reduce the value of stock on hand by creating reserves to offset diminution of the value of stock or any other factors. Keep records showing how each item was valued.

The partnership or trust may elect to value an item of trading stock below the lowest value calculated by any of these methods because of obsolescence or other special circumstances. The value in the election must be reasonable. If an election has been made to value an item of trading stock below cost, market selling value and replacement value, see **55 Trading stock election** on page 59.

If incorrect trading stock information has been included on the tax return, advise the Tax Office by submitting a full statement of the facts, accompanied by a reconciliation of the value of stock as returned for each income year with the values permissible under the law.

Partnerships and trusts engaged in manufacturing include the value of partly manufactured goods as part of their stock and materials on hand at the end of the income year.

For information on the circumstances in which packaging items held by a manufacturer, wholesaler or retailer are 'trading stock' as defined in section 70-10 of the ITAA 1997, see Taxation Ruling TR 98/7.

> **!** NOTE
> Items **39** and **40** below reflect amounts calculated for accounting purposes.

39 TRADE DEBTORS

Show at **E** the total amounts owing to the partnership or trust at year end for goods and services provided during the income year – that is, current trade debtors. Also include this amount at item **29 All current assets**.

40 TRADE CREDITORS

Show at **H** the total amounts owed by the partnership or trust at year end for goods and services received during the income year – that is, current trade creditors. Also include this amount at item **31 All current liabilities**.

> **!** NOTE
> Items **41** to **46** below reflect amounts that have been calculated for tax purposes.

41 TOTAL SALARY AND WAGE EXPENSES

Show at **L** the total salary, wages and other labour costs actually paid or payable to persons employed in the partnership's or trust's business. However, exclude those costs for private domestic assistance or forming part of capital expenditure, as they are not deductible.

A partner cannot be an employee of a partnership. You cannot claim a deduction for partners' salaries, nor can partners' salaries create or increase a partnership loss. In reality, partners' salaries are an allocation or advancement of profits prior to general distribution and are not taken into account in calculating the net partnership income or loss, see *Taxation Ruling TR 2005/7 – Income tax: the taxation implications of partnership salary agreements*.

You can only claim a deduction for a payment made or liability incurred by a partnership or trust to an associated person, principal, agent, related entity and/or associate entity if it is incurred in the production of assessable income and the Tax Office is satisfied that it is reasonable in amount.

These expenses include any salary and wage component of **Expenses**, **E Cost of sales** item **5** – that is, allowances, bonuses, casual labour, retainers and commissions paid to people who received a retainer, and workers' compensation paid through the payroll. Also included are direct and indirect labour costs, directors' fees, holiday pay, locums, long service leave, lump sum payments, other employee benefits, overtime, payments under an incentive or profit sharing scheme, retiring allowances and sick pay. Include any salary or wages paid to an associated person, principal, agent, related entity and/or associate entity here and at item **42 Payments to associated persons**.

However, these expenses exclude agency fees, contract payments, sub-contract payments, service fees, superannuation, management fees and consultant fees.

Print in the CODE box the code from **table 18** that matches the description of the expense component where salary and wage expenses have been wholly or predominantly reported.

TABLE 18

	Code
Included in the expense component of: **Cost of sales**	C
All other expenses	A
Included in both the expense components of: **Cost of sales** and **All other expenses**	B
Included in other than: **Cost of sales** and/or **All other expenses**	O

42 PAYMENTS TO ASSOCIATED PERSONS

P For partnerships, show at **M** the amounts, including salaries, wages, commissions, superannuation contributions or allowances, paid to:

- a relative of a partner
- another partnership in which a relative is a partner
- a shareholder or director (or their relatives) of a private company that is a partner in the partnership
- a beneficiary (or a relative of a beneficiary) of a trust where the trustee is a partner in the partnership.

Do not show at **M** the amounts paid to a partner in the partnership.

T For trusts, show at **M** the amounts, including salaries, wages, commissions, superannuation contributions or allowances, paid to the trustee's relatives or partnerships in which a relative of the trustee is a partner.

For partnerships and trusts, also include the amounts of salaries and wages paid to an associated person, relative, principal, agent, related entity and/or associate entity at item **41 Total salary and wage expenses**.

Record keeping

Excessive payments to a relative or other related entity may not be deductible (see section 26–35 of the ITAA 1997). Keep a record of the following to establish the reasonableness of remuneration:

- full name of relative or other related entity
- relationship
- age, if under 18 years of age
- nature of duties performed
- hours worked
- total remuneration
- salaries or wages claimed as deductions
- other amounts paid – for example, retiring gratuities, bonuses and commissions.

43 INTANGIBLE DEPRECIATING ASSETS FIRST DEDUCTED

STS taxpayers

If the partnership or trust is eligible to enter or continue in the STS and has chosen to do so at item **3**, do not include an amount at this item.

Non-STS taxpayers

The following intangible assets are regarded as depreciating assets (as long as they are not trading stock):

- certain items of intellectual property – patents, registered designs, copyrights and licences of these
- computer software (or a right to use computer software) that the partnership or trust acquires, develops or has someone else develop for its use for the purposes for which it is designed – in-house software
- mining, quarrying or prospecting rights and information
- spectrum licences
- datacasting transmitter licences
- certain indefeasible rights to use telecommunications cable systems (IRUs)
- some access rights to telecommunications sites.

A depreciating asset that the partnership or trust holds starts to decline in value from the time the partnership or trust uses it (or installs it ready for use) for any purpose, including a private purpose. However, the partnership or trust can only claim a deduction for the decline in value to the extent it uses the asset for a taxable purpose, such as for producing assessable income.

Show at **N** the cost of all intangible depreciating assets for which the partnership or trust is claiming a deduction for decline in value for the first time. If the partnership or trust has allocated any intangible depreciating assets with a cost of less than $1,000 to a low-value pool for the income year, also include the cost of those assets at **N**. Do not reduce the cost for estimated non-taxable use.

Do not include expenditure on in-house software which has been allocated to a software development pool at **N**.

For more information on decline in value, cost, low-value pools, in-house software and software development pools, see the *Guide to depreciating assets 2007*.

If you show an amount of more than $75,000 at **N**, complete and attach a *Capital allowances schedule 2007*. For more information, see the *Capital allowances schedule instructions 2007*.

44 OTHER DEPRECIATING ASSETS FIRST DEDUCTED

STS taxpayers

If the partnership or trust is eligible to enter or continue in the STS and has chosen to do so at item **3**, do not include an amount at this label.

Non-STS taxpayers

A depreciating asset that the partnership or trust holds starts to decline in value from the time the partnership or trust uses it (or installs it ready for use) for any purpose. However, the partnership or trust can only claim a deduction for the decline in value to the extent it uses the asset for a taxable purpose, such as for producing assessable income.

Show at **U** the cost of all depreciating assets (other than intangible depreciating assets) for which the partnership or trust is claiming a deduction for the decline in value for the first time. If any assets (other than intangible depreciating assets) with a cost of less than $1,000 have been allocated to a low-value pool for the income year, also include the cost of those assets at **U**. Do not reduce the cost for estimated non-taxable use.

For information on decline in value, cost and low-value pools, see the *Guide to depreciating assets 2007*.

If an amount of more than $75,000 is shown at **U**, complete and attach a *Capital allowances schedule 2007*. For more information, see the *Capital allowances schedule instructions 2007*.

45 TERMINATION VALUE OF INTANGIBLE DEPRECIATING ASSETS

STS taxpayers

If the partnership or trust is eligible to enter or continue in the STS and has chosen to do so at item **3**, do not include an amount at this label.

Non-STS taxpayers

For more information on intangible depreciating assets, see **43 Intangible depreciating assets first deducted** on page 57.

Show at **O** the termination value of each balancing adjustment event occurring for intangible depreciating assets to which the UCA rules applied – including assets allocated to a low-value pool.

Do **not** show at **O** any consideration received during the income year for in-house software for which the partnership or trust has allocated expenditure to a software development pool.

A balancing adjustment event occurs if the partnership or trust stops holding or using a depreciating asset or decides not to use it in the future – for example, assets sold, lost or destroyed. Generally, the termination value is the amount the partnership or trust receives or is deemed to receive in relation to the balancing adjustment event. It also includes the market value of any non-cash benefits such as goods and services the partnership or trust receives for the asset.

For more information on balancing adjustment events, termination value, in-house software and software development pools, see the *Guide to depreciating assets 2007*.

46 TERMINATION VALUE OF OTHER DEPRECIATING ASSETS

STS taxpayers

If the partnership or trust is eligible to enter or continue in the STS and has chosen to do so at item **3**, do not include an amount at this label.

Non-STS taxpayers

Show at **W** the termination value of each balancing adjustment event occurring for depreciating assets – including assets allocated to a low-value pool.

Do not show at **W** any consideration received during the income year for:

- depreciating assets allocated in a prior year to a general STS pool or long life STS pool
- intangible depreciating assets
- buildings or structures for which a deduction is available under the capital works provisions
- assets used in research and development activities
- assets falling within the provisions relating to investments in Australian films.

A balancing adjustment event occurs if the partnership or trust stops holding or using a depreciating asset or decides not to use it in the future – for example, assets sold, lost or destroyed. Generally, the termination value is the amount the partnership or trust receives or is deemed to receive in relation to the balancing adjustment event. It also includes the market value of any non-cash benefits such as goods and services the partnership or trust receives for the asset.

For more information on balancing adjustment events and termination value, see the *Guide to depreciating assets 2007*.

47 DEDUCTION FOR PROJECT POOL

Show at **P** the partnership's or trust's deductions for project pools. For more information, see appendix 6.

If an amount greater than $1,000 is shown at **P** complete and attach a *Capital allowances schedule 2007* unless the partnership or trust is eligible to enter or continue in the STS and has chosen to do so at item **3**.

48 SECTION 40-880 DEDUCTION

Show at **X** the total of the partnership's or trust's deductions allowable under section 40-880. For more information, see appendix 6.

49 FRINGE BENEFIT EMPLOYEE CONTRIBUTIONS

Show at **T** all payments the partnership or trust has received from recipients of fringe benefits.

Employee contributions form part of the employer's or associate's assessable income in situations where employees make payments for fringe benefits they have received.

50 INTEREST EXPENSES OVERSEAS

Show at **Q** the amount of interest paid on money borrowed from overseas sources. Also include this amount at **Expenses**, **I Total interest expenses** item **5**.

An amount of tax – withholding tax – is generally withheld from interest paid or payable to non-residents, and from interest derived by a resident through an overseas branch. You must remit these amounts to the Tax Office. You cannot claim a deduction unless you have remitted any withholding tax to the Commissioner.

51 ROYALTY EXPENSES OVERSEAS

Show at **R** the royalty expenses paid to non-residents during the income year.

This amount is included in **Expenses**, **J Total royalty expenses** item **5**, plus or minus any reconciliation adjustment for royalty expenses that was included at **Reconciliation items**, **B Expense reconciliation adjustments** item **5**.

An amount of tax – withholding tax – is generally withheld from royalties paid or payable to non-residents and from royalties derived by a resident through an overseas branch. You must remit this amount to the Tax Office. You cannot claim a deduction unless you have remitted any withholding tax to the Commissioner. For more information, phone the Business Infoline (see the inside back cover).

Record keeping

Keep a record of the following:

- name and address of recipient(s)
- amounts paid
- nature of the benefit derived – for example, a copy of the royalty agreement
- details of tax withheld where applicable and the date on which it was remitted to the Tax Office.

52 LANDCARE OPERATIONS AND DEDUCTION FOR DECLINE IN VALUE OF WATER FACILITY

T

Show at **S** the deduction available to the trust for landcare operations and for the decline in value of water facilities. For more information, see appendix 6.

53 DEDUCTION FOR ENVIRONMENTAL PROTECTION EXPENSES

Show at **V** the amount of allowable expenditure on environmental protection activities. For more information, see appendix 6.

54 UNPAID PRESENT ENTITLEMENT TO A PRIVATE COMPANY

T

Show at **Y** any amounts from the net income of the trust from this year or a previous year of income to which a private company is presently entitled and that remains unpaid by the 'lodgment day'. If the amount is greater than zero, print **D** in the CODE box at the right of **Y** where during the income year, the trustee of the trust estate:

- made a payment that is attributable to an unrealised gain that discharged or reduced a present entitlement
- made a loan, or
- forgave a debt

in favour of a shareholder (or an associate of a shareholder) of a private company with the unpaid present entitlement. Print **X** in the CODE box at the right of **Y** if none of the above transactions took place.

Lodgment day

The lodgment day is the earlier of the due date for lodgment and date of lodgment of the trust's tax return for the income year in which the payment, loan or debt forgiveness occurred.

55 TRADING STOCK ELECTION

The partnership or trust may elect to value an item of trading stock below the lowest value of cost, market selling value, or replacement value, because of obsolescence or any other special circumstances. The value it elects must be reasonable. For more information on trading stock valuations where obsolescence or other special circumstances exist, see *Taxation Ruling TR 93/23 – Income tax: valuation of trading stock subject to obsolescence or other special circumstances*.

If an election is made, print **Y** for yes in the box at this item.

56 STS DEPRECIATING ASSETS

Only complete this item if the partnership or trust is eligible to enter or continue in the STS and has chosen to do so at item **3**.

To complete this item use the amounts calculated for STS depreciation deductions at **Expenses**, **K Depreciation expenses** item **5**:

- **deduction for low-cost assets** – show at **A** the total amount claimed relating to low-cost assets
- **deduction for general pool assets** – show at **B** the total amount claimed relating to the general STS pool
- **deduction for long life pool assets** – show at **C** the total amount claimed relating to the long life STS pool.

> **NOTE**
>
> Remember, only put the depreciation deduction in the three STS depreciating asset labels – not the pool balance.

57 ENTREPRENEURS TAX OFFSET (ETO)

> **NOTE**
>
> Only complete this item if the partnership or trust is eligible to enter or continue in the simplified tax system (STS) and has chosen to do so at item **3**.

The entrepreneurs tax offset (ETO) is an incentive to encourage small business growth. From 1 July 2005, certain small businesses that are in the STS are eligible to receive the ETO, which can be up to 25% of their income tax liability in respect of their eligible STS business income.

The ETO is provided under Subdivision 61-J of the ITAA 1997 which became law on 1 April 2005. It is a non-refundable tax offset and cannot be transferred to other entities or carried forward to later income years.

The tax offset is available to:

- an individual or a company that is an STS taxpayer
- the partners of an STS partnership
- the trustee or beneficiaries of an STS trust, depending on who is liable for tax on the trust income.

The amount of your tax offset will vary depending on your STS group turnover. If your STS group turnover is $50,000 or less, you can claim a tax offset equal to 25% of your income tax liability attributable to your eligible STS business income. The tax offset begins to phase out when your STS group turnover exceeds $50,000 and is reduced to zero when STS group turnover reaches $75,000.

P Partners in an STS partnership may be entitled to the tax offset in respect of net STS income earned by the partnership through its business activities providing that the partner's assessable income includes a share of that net STS income. However, partners are not entitled to the tax offset in respect of a share of net STS income that the partnership received from another partnership or a trust.

T Beneficiaries and trustees of an STS trust may be entitled to the tax offset in respect of net STS income earned by the trust through its business activities providing that the assessable income of those entities includes a share of that net STS income. However, beneficiaries and trustees of a trust are not entitled to the tax offset in respect of a share of net STS income that the trust received from another trust or a partnership.

The table below summarises where a partner in an STS partnership and a beneficiary and trustee of an STS trust may be entitled to an ETO in respect of different sources of net STS income.

ETO entitlement	Source of net STS income	
	Derived from the partnership or trust's business activities	Received by this partnership or trust from another STS partnership or trust
For a partner in an STS partnership	Possible entitlement (subject to the eligibility criteria)	No entitlement
For a beneficiary of an STS trust assessed under section 97	Possible entitlement (subject to the eligibility criteria)	No entitlement
For a trustee of an STS trust assessed under section 98	Possible entitlement (subject to the eligibility criteria)	No entitlement
For a trustee of an STS trust assessed under section 99 or 99A	Possible entitlement (subject to the eligibility criteria)	No entitlement

Partners, beneficiaries and trustees entitled to the tax offset must show the required information at this item and at item **59 Statement of distribution**.

STS group turnover

Show at **D** the partnership's or trust's STS group turnover. If the partnership or trust is not grouped with other entities under the STS grouping rules, this amount will be the partnership's or trust's **STS annual turnover**. If the partnership or trust is grouped with other entities under the STS grouping rules, the turnover of all these entities is relevant in working out the STS group turnover.

Business carried on for only part of the year

For the purposes of the ETO, if the partnership or trust carried on a business for only part of the income year, you do not need to estimate what the STS annual turnover or STS group turnover would have been if the partnership or trust had carried on a business for the whole year. This is in contrast to what is required when calculating STS average turnover or STS group turnover for the purposes of determining eligibility for STS.

STOP

If the partnership's or trust's STS group turnover is $75,000 or more, do not complete this item – the trustee, beneficiary or partner is not entitled to an entrepreneurs tax offset.

The STS group turnover is the sum of:

- the value of business supplies you make in the ordinary course of carrying on your business, and
- the value of business supplies any businesses you are grouped with make in the ordinary course of carrying on their business.

The STS group turnover includes the value of business supplies made by any entities you are grouped with, even if you did not earn or receive any income from those entities. It does not include any business supplies made between you and any businesses you are grouped with.

The **value of business supplies** means the value of supplies made in the ordinary course of carrying on a business. For supplies that do not attract GST, the value is simply the price. For supplies that do attract GST, the value is the price less the GST component.

STS group turnover **includes** amounts such as: payments for goods or services supplied, professional fees, commissions, interest received on amounts deposited in business banking accounts, and holding or security deposits forfeited by customers.

STS group turnover **excludes** amounts such as: rental income where rental activities do not form an ordinary part of the business, amounts resulting from realisation of an investment (such as the proceeds from the sale of a capital asset used in the business), payments received under an insurance claim, and the principal component of a loan repayment.

STS annual turnover is the value of the business supplies made during the year. Unlike STS group turnover, it does not include the value of business supplies made by any entities that the partnership or trust is grouped with.

For more information on the value of business supplies, phone the Business Infoline (see the inside back cover) or see Taxation Ruling TR 2002/11.

For more information on the STS grouping rules phone the Business Infoline or see Taxation Ruling TR 2002/6.

Net STS income

Show at **E** the net STS income the partnership or trust earned from its business activities. Do not include any net STS income amounts received from partnership or trust distributions. There must be an amount of net STS income included in the trustee, beneficiary or partner's assessable income before an entitlement to an offset arises for those entities.

STOP

Do not complete this item if there is no net STS income or the allowable deductions exceed the STS annual turnover.

Net STS income is the amount by which the entity's STS annual turnover exceeds the total allowable deductions attributable to that turnover.

NOTE

1 In determining net STS income, the allowable deductions attributable to STS annual turnover do not include:
- tax losses from prior years
- superannuation contributions
- gifts or donations, or
- costs of managing tax affairs.

2 If the partnership's or trust's STS pool includes assets that are used partly for business and partly for other income-producing activities, the STS pool deduction for the purposes of determining the entity's net STS income must be apportioned using a reasonable basis.

For more information about the ETO, see *The simplified tax system – a guide for tax agents and small businesses* (NAT 6459), visit our website or phone the Business Infoline (see the inside back cover).

EXAMPLE: TRUSTEE OF AN STS TRUST

T

The ABC trust is an STS taxpayer for the year ended 30 June 2007. The trust's net income for the year was $40,000 (representing business turnover of $45,000 less business expenses of $10,000 plus net rental income from a residential rental property of $5,000). The trust is not grouped with any other entity so its STS group turnover is also $45,000.

Thomas is a non-resident beneficiary of the ABC trust who received all of the trust's net income for the year. The trustee of the ABC trust will be assessed under section 98 of the ITAA 1936 in respect of the net income of the trust which was distributed to Thomas.

The preparer of ABC's income tax return would record:
- the trust's STS group turnover ($45,000) at **D**
- the amount of net STS income earned from the trust's business activities ($35,000) at **E**, and
- Thomas's share of net STS income ($35,000) at item **59**.

Using this information, the Tax Office would calculate the trustee's tax offset as follows:

Step 1 Calculate the net income of the trust	=	$40,000
Step 2 Calculate 25% of the trustee's tax liability on the trust's net income (apart from any offsets)	= =	25% of the income tax liability of *$11,784 $2,946
Step 3 Calculate the STS percentage	= = =	net STS income / net income x 100 $35,000 / $40,000 x 100 87.5% (the STS percentage)
Step 4 If the trust's STS group turnover is less than $50,000, calculate the ETO (the step 2 amount x the STS percentage).	= =	$2,946 x 87.5% $2,577.75
Step 5 If the trust's STS group turnover is greater than $50,000, calculate the STS phase out fraction.	=	75,000 – STS group turnover / 25,000 Step 5 is not applicable in this example as the trust's STS group turnover is less than $50,000. If step 5 was applicable, the ETO would be calculated as the step 2 amount x the STS percentage x the STS phase out fraction.

The trustee is entitled to a tax offset of $2,577.75

* non-resident individual tax rates applying to the trust net income of $40,000

ETO and PAYG

The ETO is not taken into consideration when determining the rate of PAYG instalments.

If an entity anticipates that it will be entitled to the offset on assessment, the entity may vary its instalments during the year. However, the entity may be liable to the general interest charge where a variation results in an underestimation of the instalments of more than 15%.

58 MEDICARE LEVY REDUCTION OR EXEMPTION T

A trustee only needs to complete this item if all of the following conditions apply:

- The trustee is liable to be assessed on a share of the net income of the trust to which a beneficiary who is under a legal disability is presently entitled.
- That beneficiary's share of the net income of the trust is more than the relevant threshold amount for the Medicare levy as set out in part A of question **M1** in *TaxPack 2007* – either the relevant threshold amount for all other taxpayers or, if eligible, the relevant threshold for the pensioner or senior Australians tax offset.
- That beneficiary qualifies for an exemption or reduction in the Medicare levy under one of the categories set out in question **M1** of *TaxPack 2007*.

If there is more than one such beneficiary, attach a statement to the trust tax return setting out the information required at this item for each additional beneficiary. Print **YES** in the **Have you attached any 'other attachments'?** box at the top of page 1 of the trust tax return.

Spouse's 2006–07 taxable income

Show at **A** the taxable income for the 2006–07 income year of the beneficiary's spouse. If the beneficiary had no spouse or had a spouse who had no taxable income, write zero (**0**) at **A**.

Number of dependent children and students

Show at **B** the number of the beneficiary's dependent children and students – if any.

Labels C and D

For details of the various Medicare levy exemption categories, see *TaxPack 2007*.

Full 1.5% levy exemption – number of days

Show at **C** the number of days in the 2006–07 income year for which the beneficiary was entitled to the full Medicare levy exemption. If you have completed **C** and the beneficiary has been issued with a Medicare exemption certificate, print **C** in the CODE box.

Half 1.5% levy exemption – number of days

Show at **D** the number of days during the 2006–07 income year for which the beneficiary was entitled to a half Medicare levy exemption.

Medicare levy on income to which no beneficiary is presently entitled

If a trustee is liable to be assessed on that part of the net income of a trust, other than a trust of a deceased person, to which no beneficiary is presently entitled, the trustee may need to pay the Medicare levy.

If a trustee is assessed on part or all of the net income of a trust and is liable to pay tax on all of the income so assessed at the top marginal tax rate, the trustee must pay the Medicare levy at 1.5% of net income.

In other situations, if the net income assessed to the trustee:

- is $416 or less, no Medicare levy is payable
- is in the range of $417 to $450, the Medicare levy is 20% of the excess over $416
- is more than $450, the Medicare levy is 1.5%.

In a trust of a deceased person, no Medicare levy is payable on that part of the net income of the trust to which no beneficiary is presently entitled.

Medicare levy on income to which a beneficiary under a legal disability is presently entitled

The trustee must pay the Medicare levy if the trustee is assessed on that part of the trust net income to which a beneficiary who is under a legal disability is presently entitled. The trustee must pay the levy if the levy would have been payable by the beneficiary had that part of the net income been the taxable income of the beneficiary.

The trustee does not pay the Medicare levy on trust net income to which a beneficiary under a legal disability is presently entitled if the trust net income is less than the relevant threshold amount for the Medicare levy as set out in part A of question **M1** in *TaxPack 2007* – either the relevant threshold amount for all other taxpayers or, if eligible, the relevant threshold amount for the pensioner or senior Australians tax offset.

Most trustees do not need to supply any information about the Medicare levy. However, some – see above – need to complete the **Medicare levy reduction or exemption** item **58** on page 7 of the trust tax return so that either no levy or a reduced levy is charged.

Medicare levy surcharge

If the beneficiary's share of the trust net income to which a trustee is assessed under section 98 exceeds either $50,000 (if single) or the family surcharge threshold – see question **M2** in *TaxPack 2007* – the trustee may be liable for the Medicare levy surcharge (MLS). Include a separate statement showing the details listed below, sign it and attach it to the trust tax return. Print **YES** in the **Have you attached any 'other attachments'?** box at the top of page 1 of the tax return. The details are:

- trust name
- trust TFN
- beneficiary's name
- beneficiary's TFN
- number of days **not** liable for MLS
- full name of beneficiary's spouse – if applicable
- spouse's taxable income – if applicable
- number of dependent children – if applicable
- health fund identification (ID) code – if applicable
- membership number – if applicable
- type of cover – if applicable: **Ancillary** (also known as 'extras'), **Hospital** or **Combined** hospital and ancillary cover.

The definition of dependant for the purposes of MLS differs from the definition of dependant for other tax purposes. The beneficiary's taxable income and their spouse's taxable income for MLS purposes must be calculated ignoring the exemption under section 271-105 of Schedule 2F to the ITAA 1936 for distributions on which family trust distribution tax (FTDT) has been paid. For more information about the circumstances in which FTDT is payable, see page 17.

STATEMENTS OF DISTRIBUTION

59 STATEMENT OF DISTRIBUTION P

The distribution statement must show only Australian source income or loss, as shown at item **17 Net Australian income or loss** on the partnership tax return.

If the following persons or entities are partners, and the partnership claimed a deduction in respect of a listed investment company (LIC) capital gain amount, the partnership must advise these partners of their share of the deduction claimed by the partnership for the LIC capital gain amount:

- non-resident individual
- trustee of a trust
- trustee of a superannuation entity
- company (including a life insurance company), and
- partnership.

Show the distribution of the net Australian income or loss on each partner's tax return at:

Individuals

- item **12 Partnerships and trusts** (this item is in the supplementary section of the *Tax return for individuals 2007*)

Companies

- item **6 Calculation of total profit or loss**

Trusts

- item **8 Partnerships and trusts**, except for distributions of income subject to foreign resident withholding, which are shown at item **5 Business income and expenses**.

Do not show capital gains, attributed foreign income, foreign source income or foreign tax credit on the distribution statement. Record and distribute these separately, keeping details for your records.

Include this income or credit on each partner's own tax return at the following:

Individuals

- item **17 Capital gains**
- item **18 Foreign entities**
- item **19 Foreign source income and foreign assets or property**
- **O Foreign tax credits** item **19**.

Companies

- item **7 Reconciliation to taxable income or loss**
- **Calculation statement, D Foreign tax credits.**

Trusts

- item **18 Capital gains**
- item **19 Attributed foreign income**
- item **20 Other assessable foreign source income**.

For more information on capital gains, see the *Guide to capital gains tax 2007*.

If the number of partners exceeds five

For paper returns, if the total number of partners is more than five, list the details in each column as requested for four of the partners. Summarise the distributions to the rest of the partners and include this as the fifth line.

On the fifth line print **SUMMARY** in column 1 and show the senior partner's address instead of the partner's address. In the other columns show summarised totals for the additional partners.

Attach a list to the partnership tax return showing the details of each additional partner in the same format as the statement of distribution. Print **YES** in the **Have you attached any 'other attachments'?** box at the top of page 1 of the tax return.

Column headings

Column 1

Show the full name and TFN of each partner. If the TFN is not shown, show the partner's address for the service of notices. If the partner is a trustee show the name and TFN of the trust.

Column 2

Show each partner's share of income in whole dollars only – separated into primary production income and non-primary production income. If a loss is distributed print **L** after the amount.

Column 3

Show each partner's share of credit for amounts withheld where an ABN was not quoted. Show whole dollars only. The total of column 3 equals the sum of any credit claimed at:

- **T** item **6 Tax withheld where ABN not quoted**, and
- **C** **Share of credit for tax withheld where ABN not quoted** item **8**.

Column 4

Show each partner's share of franking credit for franked dividends. The total of column 4 must equal the sum of franking credits claimed at:

- **D** **Share of franking credit from franked dividends** item **8**, and
- **M** **Franking credit** item **11**.

Column 5

Show each partner's share of credit for amounts withheld from payments of interest, dividends and unit trust distributions by investment bodies because the recipient did not quote a tax file number (TFN). The total of column 5 must equal the sum of TFN amounts withheld on interest, dividends and unit trust distribution at:

- **E** **Share of credit for TFN amounts withheld from interest and dividends** item **8**
- **I** **TFN amounts withheld from gross interest** item **10**, and
- **N** **TFN amounts withheld from dividends** item **11**.

Column 6

Show each partner's share of credit for amounts withheld under foreign resident withholding. Show whole dollars only. The total of column 6 must equal the total amount of credit shown on the tax return at **U** item **6 Credit for tax withheld – foreign resident withholding** and **U** item **8 Share of credit for tax withheld from foreign resident withholding**.

Column 7

Show each partner's share of Australian franking credits that were attached to franked dividends received from a New Zealand company either directly or indirectly through another partnership or trust.

This amount is not necessarily the total amount that can be claimed by each partner. This is because under section 220-405 of the ITAA 1997, each partner's share of franking credits should be reduced by the amount of any share of supplementary dividend paid by the New Zealand company if:

- the supplementary dividend was paid in connection with the franked dividend, and
- the partner is entitled to a foreign tax credit because the franked dividend is included in their assessable income. For more information, see appendix 1.

If the above conditions exist, the reduction should be made on the partner's own tax return.

Column 8

Show each partner's share of Net STS income. Show whole dollars only. The total of column 8 must equal the amount shown on the tax return at **E** item **57 Net STS income**.

Real and effective control of share in partnership income

If a partner aged 18 years or more on the last day of the partnership's income year does not have real and effective control and disposal of their whole share or part of their share of partnership net income, further tax is payable by the partner – see section 94 of the ITAA 1936.

Real control depends on the constitution and control of the partnership and the conduct of its operations. Broadly, there is a lack of real control if the partner must allow any part of their share of income to be dealt with in a particular way so that the partner cannot, on their own, deal with it in another way.

Under special circumstances the Commissioner may treat a partner as having real control of a share or part of a share of partnership income. If it is considered that this discretion is exercised, provide full details in support of the request. Print **YES** in the **Have you attached any 'other attachments'?** box at the top of page 1 of the partnership tax return.

59 STATEMENT OF DISTRIBUTION T

Is a beneficiary named at item 59 a trustee beneficiary?

If you are a trustee of a closely held trust with trustee beneficiaries – that is, if you distribute net income to other trusts, presently entitled to a share of net income or tax-preferred amounts – print **Y** for yes at **W**. If you do print **Y** here, you only need to complete and lodge an *Ultimate beneficiary schedule* if:

- you have an ultimate beneficiary non-disclosure tax (UBNT) liability for the year under consideration, or
- the Commissioner requests an ultimate beneficiary statement.

Instructions for completion are given on the schedule.

For more information on the *Ultimate beneficiary schedule* and the disclosure requirements for trustees for ultimate beneficiaries, see appendix 12.

Has the trust received an eligible termination payment (ETP)?

Do not show death benefit ETPs on the distribution statement. The trustee is liable to pay the tax, if any, on these amounts. The amount of tax payable by the trustee depends on the components of the ETP and the extent that the dependants of the deceased benefit from the estate. For more information on ETPs, see page 43.

Has the trust received a listed investment company (LIC) capital gain amount?

If the following persons or entities are beneficiaries, and the trust claimed a deduction in respect of a LIC capital gain amount, the trust must advise these beneficiaries of their share of the deduction claimed by the trust for the LIC capital gain amount:

- non-resident individual
- trustee of a trust
- trustee of a superannuation entity
- company (including a life insurance company), and
- partnership.

Is a beneficiary presently entitled?

If resident beneficiaries are presently entitled to a share of the income of a trust and are not under any legal disability, it is the beneficiaries who are assessable on their share of the net income of the trust, not the trustee.

A beneficiary is deemed to be presently entitled to income of a trust if they have an 'indefeasible vested interest' in that income. An indefeasible interest is simply one that cannot be defeased or brought to an end or varied by someone else. A vested interest is one that presently exists. However, it can be either a present right or one that can be enjoyed in the future.

Is the beneficiary not presently entitled?

Include at item **59**, at the labels to the right of the 'Beneficiary 3' details under **Income to which no beneficiary is presently entitled**..., that part of the net income of the trust at item **23 Total net income or loss** to which no beneficiary is presently entitled and in which no beneficiary has an indefeasible vested interest. This is income that is being accumulated within the trust.

The trustee also prints **Y** for yes at the item **Is any tax payable by the trustee?** on page 1 of the trust tax return.

Except for deceased estates in the year in which the deceased died and the following two income years – which are taxed at the general individual rates – a trustee is assessable under section 99A of the ITAA 1936 and is liable to pay tax at the maximum rate of personal income tax on income to which no beneficiary is presently entitled. There is discretion not to apply this provision to a trust that:

- resulted from the will or intestacy of a deceased person
- consists of property either of a bankrupt vested in the official receiver in bankruptcy or that is being administered under Part XI of the *Bankruptcy Act 1966* (as amended)
- consists of property that was transferred to the trustee for the benefit of the beneficiary:
  - by way of, or in satisfaction of a claim for, damages for loss of parental support, personal injury, disease, or physical or mental impairment
  - by way of workers' or criminal injury compensation
  - directly as a result of the death of a person and from the proceeds of a life assurance policy, a superannuation fund or an employer of the deceased person
  - out of a public fund established and maintained exclusively for the relief of persons in necessitous circumstances, or
  - as a result of a family breakdown.

If this discretion is exercised, the trustee is not liable to pay tax at the maximum rate of personal income tax on the income to which no beneficiary is presently entitled. Instead, the trustee pays tax at progressive or shaded-in rates. For trusts – other than for the first three years for deceased estates which are taxed at the general individual rates – these shaded-in rates are as shown in the following table:

TABLE 19

Share of net income ($)	Tax on column 1 ($)	% on excess (marginal rate) ($)
416	Nil	50
594	89	15
25,000	3,750	30
75,000	18,750	40
150,000	48,750	45

If you would like the Commissioner's discretion to be exercised, submit full details in support of the request, together with:

1 details of the balance sheet capital accounts
2 if shares are held in private companies and special rights attach directly or indirectly to those shares, a statement showing the name of the company, the class and paid-up value of the shares, details of the special rights, and whether those rights have been exercised during the year
3 if a loan has been made to or by the trust, a statement showing the nature of the debt, the terms of the loan and the borrower's or lender's full name, address and family relationship, if any, to the beneficiaries. To obtain the Commissioner's discretion, this information need not be furnished for public securities, debentures in public companies and loans made in normal commercial transactions where the parties are at arm's length. If relatives of the beneficiaries or other persons not at arm's length have made loans to a private company in which the trust holds shares, or to a partnership in which the trustee is a partner, full details must also be given for such loans
4 if a person, other than in a purely commercial transaction at arm's length, has directly or indirectly transferred money or property to the trust, conferred benefits on the trust or conferred special privileges on the property of the trust, the full name and address of the person and the family relationship, if any, of that person to the beneficiaries
5 the names of any other trusts to which the person in 3 or 4 has contributed in the ways mentioned in those sub-paragraphs or in which the beneficiaries of the trust lodging this tax return are interested
6 details of property, which has been transferred to a trust by a relative of the beneficiaries and income from that property which must or may be used to pay for that property.

The information required under 2 to 6 need not be supplied if it has already been sent in an application for exercise of the Commissioner's discretion for income included on an earlier income year's tax return. However, a statement advising whether or not any material changes have occurred since the information was furnished must accompany the trust tax return if the discretion is exercised for any income included on the tax return being lodged.

Print **YES** in the **Have you attached any 'other attachments'?** box at the top of page 1 of the trust tax return.

Capital gains reduced by the CGT discount and/or the small business 50% reduction where no beneficiary is presently entitled

If the trustee is assessable under section 99A of the ITAA 1936 on net income, capital gains included in that part of the trust's net income are ineligible for the CGT discount and the small business 50% reduction (see section 115-225 of the ITAA 1997).

To the extent the trust's net income, to which no beneficiary is presently entitled, includes a capital gain to which either the CGT discount or the small business 50% reduction has been applied, work out the amount assessable to the trustee under section 99A as if the part attributable to the capital gain was double the amount it actually is.

To the extent that the trust's net income, to which no beneficiary is presently entitled, includes a capital gain to which both the CGT discount and the small business 50% reduction have been applied, work out the amount assessable to the trustee under section 99A as if the part attributable to the capital gain was four times the amount it actually is.

Attach a separate statement to the trust tax return showing details of the amount assessable under section 99A using the above method.

Print **YES** in the **Have you attached any 'other attachments'?** box at the top of page 1 of the tax return.

Is the trust a deceased estate?

In the case of a trust created as a result of the death of a person, for the first three trust tax returns lodged the income to which no beneficiary is presently entitled is taxed to the trustee at general individual tax rates, with the benefit of the full tax-free threshold of $6,000.

Thereafter, this income reverts to being taxed at rates of tax as shown in **table 19** on page 65, if the Commissioner's discretion is exercised.

If the Commissioner's discretion is to be exercised for a deceased estate, provide the information about the deceased person as described in 2 to 6 in the previous column.

Completing item 59

The total of the income – **N**, **A**, **B**, **F**, **G** and **H** on this statement – equals the amount at item **23 Total net income or loss** – except in the case of certain ETPs, as covered on page 43 and in the case where a beneficiary's or a trustee's share of franking credits at **N** has been reduced because of an entitlement to a foreign tax credit.

If part of a distribution is not taxable to either the trustee or a beneficiary – for example, the distribution to a non-resident beneficiary includes:

- dividends, interest or royalties on which withholding tax has been paid/withheld, or
- franked dividends

– attach a statement highlighting this, including the information outlined at **Non-resident beneficiaries** on page 52.

A trust cannot distribute an overall trust loss.

If the number of beneficiaries exceeds three

For paper returns, if there are more than three beneficiaries list the details at the appropriate labels in the distribution statement for two of the beneficiaries. The distributions to the remainder must be summarised and included against the labels underneath the ***Beneficiary 3*** name and address box.

In the ***Beneficiary 3*** name and address details print **SUMMARY** and show the trustee's address instead of the beneficiary's address. Show summarised totals for the additional beneficiaries against the labels underneath.

Attach a list to the trust tax return showing the details of each additional beneficiary in the same format as the statement of distribution. Print **YES** in the **Have you attached any 'other attachments'?** box at the top of page 1 of the tax return.

Beneficiary details

Beneficiary 1, Beneficiary 2, Beneficiary 3

Show the full name and TFN of each beneficiary entitled, presently entitled or having an indefeasible and vested interest. If the TFN is not shown, show the beneficiary's address for the service of notices. If the beneficiary is a trustee of another trust, show the name and TFN of the trust.

Date of birth

If the beneficiary is under 21 years of age as at 30 June, show their date of birth.

Label details

Assessment calculation code V

Insert an assessment calculation code for each beneficiary if the beneficiary is presently entitled to a share of the income of the trust and also against income to which no beneficiary is presently entitled and in which no beneficiary has an indefeasible vested interest. For more information on trustee assessment calculation codes, see appendix 13.

Bankrupt estates are lodged under assessment calculation code 37.

Credit for tax withheld – foreign resident withholding L

Show each beneficiary's share of credit for tax withheld where income is subject to foreign resident withholding. Show whole dollars only. The total of the amounts at **L** must equal the total amount of credit shown on the tax return at **U** item **6 Credit for tax withheld – foreign resident withholding** and **U** item **8 Share of credit for tax withheld from foreign resident withholding**.

Australian franking credits from a New Zealand company N

If the resident beneficiaries are presently entitled to a share of the income of the trust and are not under any legal disability, the beneficiaries – not the trustee – are assessed on their share of the net income of the trust. For more information on present entitlement, see **Is a beneficiary presently entitled?** under **59 Statement of distribution (trusts)** on page 65.

Include at **N** the beneficiary's share of the Australian franking credit received from a New Zealand company, including any amounts received through another trust or a partnership. The amount at **N** is not necessarily the amount that can be claimed by each beneficiary

If the beneficiary is under a legal disability or it is income to which no beneficiary is presently entitled and in which no beneficiary has an indefeasible vested interest, the trustee will be assessed on the income. In these circumstances, include at **N** the amount of Australian franking credits attached to a New Zealand dividend allowed to the trustee. Under section 220-405 of the ITAA 1997, the Australian franking credits are reduced by the relevant part of the supplementary dividend paid by the New Zealand company if:

- the supplementary dividend was paid in connection with the franked dividend, and
- the beneficiary under a legal disability or trustee is entitled to a foreign tax credit because the franked dividend is included in their assessable income. For more information, see appendix 1.

Share of income A and B

Show each beneficiary's share of income in whole dollars only – separated into primary production income and non-primary production income. If a loss is distributed print **L** in the box after the amount.

A loss is only shown for a component – that is, primary production or non-primary production – of an overall trust distribution. The trust cannot distribute an overall trust loss.

Credit for tax withheld where ABN not quoted C

Show each beneficiary's share of credit for tax withheld where an ABN was not quoted. Show whole dollars only. The total of **C** amounts equals the sum of any credit shown on the trust tax return at:

- **T Tax withheld where ABN not quoted** item **6**, and
- **C Share of credit for tax withheld where ABN not quoted** item **8**.

Franking credit D

Show each beneficiary's share of franking credit for franked dividends. The total of **D** amounts must equal the sum of franking credit claimed on the trust tax return at:

- **D Share of franking credit from franked dividends** item **8**, and
- **M Franking credit** item **11**.

TFN amount withheld E

Show each beneficiary's share of credit for tax withheld on interest, dividends and unit trust distributions by investment bodies as a result of the requirement to quote a TFN. The total of E amounts must equal the sum of TFN amounts withheld on interest, dividends and unit trust distributions at:

- **E Share of credit for TFN amounts withheld from interest and dividends** item **8**
- **I TFN amounts withheld from gross interest** item **10**, and
- **N TFN amounts withheld from dividends** item **11**.

If the trust has no net income, the beneficiaries do not have a share of credit for the TFN amounts withheld. Instead, show the sum of the TFN amounts at E under **Income to which no beneficiary is presently entitled...**

Net capital gain F

Show each beneficiary's share of net capital gain in whole dollars only. The total of F amounts must equal the amount at **A Net capital gain** item **18**. To complete their own tax returns and meet their capital gains tax obligations, beneficiaries need the following information:

1. a dissection of the net capital gain distributed by the trust for the income year to the extent that it comprises an amount attributable to the following:
   - capital gains from collectables, for each of the following methods of calculation:
     – indexation
     – CGT discount
     – other method
   - capital gains to which the small business 50% active asset reduction was applied, for each of the following methods of calculation:
     – indexation
     – CGT discount
     – other method
   - all other capital gains, for each of the following methods of calculation:
     – indexation
     – CGT discount
     – other method
2. details of any non-assessable payment made in the income year in respect of an interest in the trust (CGT event E4 section 104-70 of the ITAA 1997). The details should indicate the extent to which the payment is attributable to each of the following:
   - tax-exempted amounts (subsection 104-71(1) of the ITAA 1997)
   - tax-free amounts (subsection 104-71(3) of the ITAA 1997)
   - CGT concession amounts (subsection 104-71(4) of the ITAA 1997)
   - tax-deferred amounts – associated with the small business 50% active asset reduction, frozen indexation, building allowance and accounting difference in income.

To help a trustee record the information required under 1, see worksheet 5 on page 76.

For information about the small business concessions, see the *Guide to capital gains tax concessions for small business*. For more information about capital gains tax, see the *Guide to capital gains tax 2007*.

Attributed foreign income G

Show each beneficiary's share of attributed foreign income in whole dollars only. The total of G amounts must equal the sum of any attributed foreign income shown at item **19 Attributed foreign income** on the trust tax return.

Other assessable foreign source income H

Show each beneficiary's share of other assessable net foreign source income in whole dollars only. The total of H amounts must equal the amount of net foreign source income shown at **V Net** item **20** on the trust tax return.

Foreign tax credits I

Show each beneficiary's share of foreign tax credit. The total of I amounts must equal the amount of foreign tax credit shown at **Z Foreign tax credits** item **20** on the trust tax return.

ENTREPRENEURS TAX OFFSET INFORMATION

Share of Net STS income M

Show each beneficiary's share of net STS income. The total of all the label M amounts must equal the amount of net STS income shown at **E Net STS income** item **57** on the trust tax return.

NON-RESIDENT BENEFICIARIES – ADDITIONAL INFORMATION

The Tax Laws Amendment (2007 Measures No.3) Bill 2007 was introduced into Parliament on 10 May 2007. Upon enactment the Bill will amend Division 6 of the ITAA 1936 to extend the taxation of trustees to situations where a non-resident trustee beneficiary is presently entitled to income of the trust ('the proposed measures').

Under the current law, a trustee is liable to pay tax on a non-resident beneficiary's share of the net income of the trust where the beneficiary is a company not being a trustee (under subsection 98(3) of the ITAA 1936) or an individual not being a trustee (under subsection 98(4) of the ITAA 1936).

Under the proposed measures, a trustee will continue to be liable to pay tax in relation to shares of net income of non-resident companies and individual beneficiaries not being trustees. Both these amounts are now shown at **s98(3) assessable amount J**.

However, under the proposed measures, certain trustees will also be liable to pay tax in relation to trust income where a beneficiary who is presently entitled to the income of the trust is itself a trustee and is a non-resident at the end of the income year. These amounts will now be shown at **s98(4) assessable amount K**.

Two new trust assessment calculation codes have been introduced in 2007 in expectation that the proposed measures will be enacted during the 2006–07 year with effect from 1 July 2006. Do not write any amounts at **s98(4) assessable amount K** unless the proposed measures are enacted as law at the time of completing your return. For more information call the Business Infoline (see the inside back cover).

s98(3) assessable amount

***Non-resident company beneficiaries – assessable amount* J**

If you have entered assessment calculation code 139 (non-resident company beneficiaries) at **V**, you must include an amount at **J**.

Show the assessable amount under section 98 of the ITAA 1936 if the trustee is assessable on behalf of a non-resident company beneficiary on a share of the net income of the trust. Show whole dollars only. Generally, for non-resident beneficiaries who have been non-resident for the entire year, the assessable amount will exclude income subject to non-resident withholding tax and fully franked dividends, but will include all other Australian source income, including capital gains. Do not include any capital gains for which the trustee is not liable to pay tax under Subdivision 768-H or Subdivision 855-A of the ITAA 1997.

If the share of the net income assessed to the trustee under section 98 includes a discounted capital gain made by the trust estate, the assessable amount includes double the discounted capital gain (see section 115–220 of the ITAA 1997). This ensures that a trustee assessed on behalf of a non-resident company beneficiary does not get the benefit of the CGT discount. However, do not include double the discounted capital gain in the assessable amount if the gain is one for which the trustee is not liable to pay tax under Subdivision 768-H or Subdivision 855-A of the ITAA 1997.

If the beneficiary is a non-resident at the end of the year but has not been a non-resident for the entire year, show clearly in a separate schedule full details of the share of net income for the year. The amount to show at **J** will include the additional capital gain amount under section 115–220, the beneficiary's share of net income from the trust attributable to the period that the beneficiary was a resident as well as the beneficiary's share of the net income attributable to Australian sources for the period the beneficiary was a non-resident. It will exclude income subject to non-resident withholding tax and fully franked dividends. Do not include any capital gains for which the trustee is not liable to pay tax under Subdivision 768-H or Subdivision 855-A of the ITAA 1997.

***Non-resident individual beneficiaries assessable amount* J**

If you have entered assessment calculation code 138 (non-resident individual beneficiaries) at **V**, you must include an amount at **J**.

Show the assessable amount under section 98 of the ITAA 1936 if the trustee is assessable on behalf of a non-resident individual beneficiary not under a legal disability on a share of the net income of the trust. Show whole dollars only. Generally, for non-resident beneficiaries who have been non-resident for the entire year, the assessable amount will exclude income subject to non-resident withholding tax and fully franked dividends, but will include all other Australian source income, including capital gains. Do not include any capital gains for which the trustee is not liable to pay tax under Subdivision 768-H or Subdivision 855-A of the ITAA 1997.

If the beneficiary is a non-resident at the end of the year but has not been a non-resident for the entire year, you will have printed **Y** at **A** item **26**. It is important to provide the information set out at **Non-resident beneficiaries** on page 52 so that the appropriate tax rates can be applied.

The amount to show at **J** will include the beneficiary's share of net income from the trust attributable to the period that the beneficiary was a resident as well as the beneficiary's share of net income attributable to Australian sources for the period the beneficiary was a non-resident. It will exclude income subject to non-resident withholding tax and fully franked dividends. Do not include any capital gains for which the trustee is not liable to pay tax under Subdivision 768-H or Subdivision 855-A of the ITAA 1997.

s98(4) assessable amount

***Non-resident trustee beneficiaries – assessable amount* K**

Note: At the time of printing these instructions, legislation containing the proposed measures has not been enacted. Do not write any amounts at **s98(4) assessable amount K** unless these measures have been enacted by Parliament at the time of completing your return. For more information call the Business Infoline (see the inside back cover).

If you have entered assessment calculation code 140 (non-resident trustee beneficiary) at **V**, you must include an amount at **K**.

Show the assessable amount under section 98 of the ITAA 1936 if the trustee is assessable on behalf of a non-resident trustee beneficiary on a share of the net income of the trust. Show whole dollars only. It only includes income attributable to Australian sources. It will exclude income subject to non-resident withholding tax and fully franked dividends, but will include all other Australian source income, including capital gains. Do not include any capital gains for which the trustee is not liable to pay tax under Subdivision 768-H or Subdivision 855-A of the ITAA 1997.

If the trustee is assessable on behalf of a non-resident trustee under section 98 of the ITAA 1936 and the share of the net income assessed to the trustee includes a discounted capital gain made by the trust estate, the assessable amount includes double the discounted capital gain. This ensures that a trustee assessed on behalf of a non-resident trustee beneficiary does not get the benefit of the CGT discount. However, do not include double the discounted capital gain in the assessable amount if the gain is one for which the trustee is not liable to pay tax under Subdivision 768-H or Subdivision 855-A of the ITAA 1997.

60 BENEFICIARY UNDER LEGAL DISABILITY WHO IS PRESENTLY ENTITLED TO INCOME FROM ANOTHER TRUST

The trustee is liable to pay tax on the share of net income of the trust to which a beneficiary who is under 18 years of age is presently entitled. Where the beneficiary is presently entitled to income from more than one trust, the beneficiary's share of net income from each of the trusts is taken into account in working out the tax rate to apply in the trustee's assessment on behalf of the beneficiary. For more information on the tax rates and relieving provisions, see appendix 11.

Where the beneficiary is presently entitled to income from one or more other trusts, give the following information for each of those trusts:

- the name of the trust
- the tax office at which the trust tax return is lodged
- the trust TFN
- the income to which the beneficiary is presently entitled.

If a trustee is unable to provide any part of this information, they must supply all the relevant details that are available, along with the name and address of the parent or guardian of the beneficiary.

61 NON-RESIDENT TRUST

A trust is a non-resident of Australia if:

- no trustee was resident in Australia, and
- the central management and control of the trust were not in Australia at any time during the income year.

If the trust is a non-resident trust, print **Y** for yes. If not print **N** for no.

If the trust is a non-resident trust, show in the box marked **$** at this item the amount of income derived outside Australia to which no beneficiary is presently entitled. Print **NIL** if applicable.

WORKSHEETS

Worksheet 1 Reconciliation statement

Reconciliation items are those items that reconcile net profit or loss as per the profit and loss statement (the accounts) with the net income or loss for income tax purposes of the partnership or trust. This statement is not an exhaustive list of reconciliation adjustments.

		Primary production income $	Non-primary production income $
A Net profit or loss as per the accounts		/	/
Additions:			
B Income reconciliation adjustments – see below		/	/
C Expense reconciliation adjustments – see page 72		/	/
D Net income	**(A + B + C)**	/	/

Note: The additions at **B** and/or **C** may be negative amounts which will reduce the net income.
The amounts shown for net income at **D** must agree with **Q** and **R** item **5** on the tax return.

Income reconciliation adjustments

Income add backs: amounts not shown in the accounts which are assessable income

E Assessable balancing adjustment amounts on depreciating assets			
F Any excess of the tax value of closing stock over the tax value of opening stock (non-STS taxpayers)			
G Other assessable income not included in the accounts			
H Subtotal	**(E + F + G)**		

Income subtractions: income shown in the accounts which is not assessable

I Profit on the sale of depreciating assets shown in the accounts			
J Personal services income included in the assessable income of an individual (attributed amount)			
K Other income shown in the accounts which is not assessable for tax purposes—for example, gross exempt income			
L Total	**H – (I + J + K)**	/	/

Note: The net total of the primary production and non-primary production amounts at **L** must agree with the amount shown at **Reconciliation items**, **A Income reconciliation adjustments** item **5** on the tax return. If the net total is a negative amount, print **L** in the box at the right of **A** on the tax return.

Expense reconciliation adjustments

Expense add backs: expenses shown in the accounts which are not tax deductible

		Primary production income $	Non-primary production income $
M Depreciation charged in accounts*			
N Loss on the sale of depreciating assets			
O Other items not allowable as a deduction: ■ capital expenditure ■ additions to provisions and reserves ■ debt deductions denied by thin capitalisation provisions ■ income tax expense ■ certain expenses relating to personal services income that are not deductible ■ hire purchase payments ■ luxury car lease payments ■ penalties and fines ■ part of prepaid expenses not deductible this year ■ expenses relating to exempt income ■ other non-deductible expenses			
P Subtotal	**(M + N + O)**		

Expense subtractions: items not shown as expenses which are tax deductible

		Primary production income $	Non-primary production income $
Q Deduction for decline in value of depreciating assets (non-STS taxpayers)			
R Deductible balancing adjustments amounts on depreciating assets			
S Any excess of the tax value of opening stock over the tax value of closing stock (non-STS taxpayers)			
T Other tax deductible items: ■ other amounts deductible under the uniform capital allowance system ■ hire purchase agreements—interest component ■ luxury car leases—accrual amount ■ part of prepaid expenses deductible this year but not shown in accounts ■ 20% write off of capital expenditure to terminate lease or licence** ■ other deductible items			
U Total* **	**P – (Q + R + S +T)**	/	/

* Only include amounts at **M** if the partnership or trust is not an STS taxpayer. However, exclude any STS pool deductions shown at **Expenses**, **K Depreciation expenses** item **5** on the tax return.

** If the partnership or trust has incurred capital expenditure to terminate a lease or licence the partnership or trust may be entitled to claim a deduction for 20% of this expenditure if the requirements of section 25-110 of the ITAA 1997 are satisfied.

*** The net total of the primary production and non-primary production amounts at **U** must agree with the amount shown at **Reconciliation items**, **B Expense reconciliation adjustments** item **5** on the tax return. If the net total is a negative amount, print **L** in the box at the right of **B** on the tax return.

Worksheet 2 Distribution of income from other partnership and trusts

Name of partnership or trust	Primary production income distribution from a partnership	Primary production income distribution from a trust	Deduction from primary production income distribution	Non-primary production income distribution from a partnership	Non-primary production income distribution from a trust	Deduction from non-primary production income distribution	Share of any credit for tax withheld where ABN not quoted	Share of any credit for tax withheld under foreign resident withholding	Share of franking credit from franked dividends	Total share of TFN amounts withheld from interest, dividends and unit trust distributions
Total										
	00	00	00	00	00	00	Put the total at **C** item **8**.	Put the total at **U** item **8**.	Put the total at **D** item **8**.	Less withheld TFN amounts already refunded
	Put the total at **A** item **8**.	Put the total at **Z** item **8**.	Put the total at **S** item **8**.	Put the total at **B** item **8**.	Put the total at **R** item **8**.	Put the total at **T** item **8**.				
										Share of net TFN amounts withheld from interest, dividends and unit trust distributions
										Put the total at **E** item **8**.

NOTE:

You should ensure that distributions from another partnership or trust include the share of any:

- TFN amounts withheld from interest, dividends and unit trust distributions
- franking credits from franked dividends
- amounts withheld where ABN not quoted
- credit for any tax withheld under foreign resident withholding.

Worksheet 3 Interest

Who paid the interest	Branch	Account number	Total TFN amounts withheld from interest	Amount of interest
		Total 1		00
		Less withheld TFN amounts already refunded 2		
		Net TFN amounts withheld from interest—take 2 from 1		

Put the total at **J** item **10**.

Put the total at **I** item **10**.

Worksheet 4 Dividends

Name of company	Unfranked amount	Franked amount	Franking credit	Total TFN amounts withheld from dividend
	00	00	00	
	Put the total at **K** item **11**.	Put the total at **L** item **11**.	Put the total at **M** item **11**.	Less TFN amounts already refunded
				Net TFN amounts withheld from dividends
				00
				Put the total at **N** item **11**.

Worksheet 5 Distribution of net capital gain from a trust

Name of each beneficiary presently entitled to, or having an indefeasible interest in, a share of a net capital gain	Show proportion of entitlement	Non-active assets			Active assets			7 Total share
		1 Indexation applied	**2** CGT discount applied	**3** Other capital gains	**4** Indexation and small business 50% active asset reduction applied	**5** CGT discount and small business 50% active asset reduction applied	**6** Other capital gains and small business 50% active asset reduction applied	

Show here any net capital gain to which no beneficiary is presently entitled and in which no beneficiary has an indefeasible vested interest. ______

Total net capital gain (Transfer to **A** item **18.**) ______

Note:

A trustee advises a beneficiary of their share of a net capital gain in the categories 1 to 6 because a beneficiary needs to gross-up the share of net capital gain to which the trustee applied by mutiplying:

- the CGT discount by 2 – before first deducting any capital losses, then the CGT discount
- the small business 50% active asset reduction by 2 – before first deducting any capital losses, then the small business 50% active asset reduction
- the CGT discount and the small business 50% active asset reduction by 4 – before first deducting any capital losses, then the CGT discount and the small business 50% active asset reduction.

A beneficiary needs to decide which order of categories 1 to 6 to use to deduct losses that will give the best result.

For more information about these aspects of capital gains see the *Guide to capital gains tax 2007*.

Worksheet 6 Distribution of foreign income and foreign tax credits

Partner's or beneficiary's name	Tax file number	Net foreign income	Foreign tax credit

APPENDIXES

APPENDIX 1 DIVIDENDS

An imputation system for taxing dividends paid by franking entities has applied since 1 July 1987. Dividends (including non-share dividends) paid by franking entities, which have paid sufficient Australian tax, carry a tax offset entitlement for resident holders. These dividends are known as franked dividends.

In 2003, the Australian Government introduced rules, administered by the Australian Taxation Office, to allow New Zealand companies to join the Australian imputation system. The New Zealand Government introduced similar rules, administered by the New Zealand Inland Revenue Department, to allow Australian companies to join the New Zealand imputation system. Subject to full compliance with the Australian imputation rules, a New Zealand company that has chosen to join the Australian imputation system is able to maintain an Australian franking account and may pay dividends franked with Australian franking credits. This reform is known as the trans-Tasman imputation reform.

For dividends paid by Australian franking companies, the total amount of dividends received or credited, and the franking credit, is included in the assessable income of the partnership or trust to determine the relevant net income or loss. For dividends paid by New Zealand franking companies, the amount of the dividend received or credited and the franking credit included in the assessable income of the partnership or trust can vary depending on whether or not the dividend is assessable. See the *Foreign income return form guide* to work out whether the dividend is assessable income.

If the dividend received from the New Zealand company is assessable, you must declare the dividend (including any supplementary dividend) as assessable foreign income even if dividend withholding tax was deducted in New Zealand. You can claim a foreign tax credit for any New Zealand dividend withholding tax paid on the dividend.

If the franked dividend from the New Zealand company is included in assessable income, the amount of the Australian franking credit on that dividend is also assessable income and you can claim a tax offset equal to that amount (subject to the exceptions described below).

The Australian franking credit is included in the assessable income of the recipient entitled to a tax offset under section 207-50 and the tax offset is reduced by the relevant amount of a supplementary dividend paid by the New Zealand company if:

- the supplementary dividend is paid in connection with the franked dividend, and
- the franked dividend and the supplementary dividend flow indirectly to the recipient because the recipient is a partner in a partnership or a beneficiary or trustee of a trust, and
- the recipient is entitled to foreign tax credits because of the distribution.

> **NOTE**
> Australian resident shareholders are not entitled to a tax offset for New Zealand imputation credits which are attached to dividends paid by a New Zealand company. Australian resident shareholders are only entitled to a tax offset for Australian franking credits which are attached to those dividends.

Franking credit trading

For the franking credits to flow through to the partners or beneficiaries, both they and the partnership or trustee must be qualified persons in relation to the dividend.

Qualified person

To be a qualified person in relation to a dividend, a taxpayer must, during the relevant 'qualification period' (see below), hold the shares, or an interest in the shares, at risk for 45 days (90 days for certain preference shares) not counting the days on which the shares or interests were acquired or disposed of. This is sometimes referred to as the 'holding period rule'.

To hold the shares, or an interest in shares, at risk the taxpayer must carry at least 30% of the risks of loss and opportunities for gain associated with the shares, or interest in the shares.

If the taxpayer does not have an obligation to make a related payment in relation to a dividend (generally one passing the benefit of the dividend to another), the relevant qualification period for that dividend is the period beginning the day after the relevant shares or interests are acquired, and ending 45 days (90 days for certain preference shares) after the shares go ex-dividend. Otherwise, if the taxpayer is obliged to make, has made or is likely to make a related payment, the relevant **qualification period** is the period beginning 45 days (90 days for certain preference shares) before the shares go ex-dividend and ending 45 days (90 days for certain preference shares) after the shares go ex-dividend. This is sometimes referred to as the 'related payments rule'.

The holding period rule applies to shares acquired on or after 1 July 1997 – unless acquired under a contract entered into before 7.30pm AEST on 13 May 1997 – and the related payments rule applies to arrangements entered into after 7.30pm AEST on 13 May 1997.

> Beneficiaries of trusts, other than family trusts and deceased estate trusts, will not pass these tests unless they hold a sufficient fixed interest in their proportionate interest in the shares that exposes them to at least 30% of the risks and opportunities of owning the shares. They may, however, be eligible for the small shareholder exemption.

As an alternative to complying with the 45-day holding period rule, there are two other methods of attaining 'qualified person' status. While the first exempts individual shareholders with total franking credit entitlements of less than $5,000, the second allows certain taxpayers – including the trustees of listed widely held unit trusts, unlisted very widely held unit trusts, trustees of complying superannuation funds, complying approved deposit funds, pooled superannuation trusts and the statutory funds of life insurance companies – to elect to have a ceiling applied to franking credit entitlements. The ceiling determined is based upon a benchmark portfolio of shares. Certain investment vehicles primarily held by such taxpayers are also included.

After 1 July 2002 , the new simplified imputation system (SIS) continues to rely on Division 1A of Part IIIAA of the ITAA 1936 to give effect to the holding period and related payment rules. In determining if a taxpayer is a qualified person and therefore entitled to franking benefits, SIS relies on the provisions contained in Division 1A of Part IIIAA of the ITAA 1936 as if those provisions had continued to apply. This indirect approach will be replaced so that the relevant provisions are actually contained within the SIS.

As part of this process, consequential amendments will be made to these rules to take into account the new SIS.

For example, the small shareholder exemption and the benchmark portfolio ceiling method rules will be amended to reflect the new SIS terminology and processes.

General anti-avoidance rule

Section 177EA of the ITAA 1936 is a general anti-avoidance rule against franking credit trading and streaming that applies where one of the purposes of an arrangement – other than an incidental purpose – is to obtain a tax advantage in relation to franking credits. This rule, which was introduced by the *Taxation Laws Amendment Act (No 3) 1998*, applies to dividends or distributions paid after 7.30pm AEST on 13 May 1997, under certain arrangements having the requisite purpose.

Amendments have been made to these provisions to facilitate the operation of the new SIS rules.

For more information, see *You and your shares 2007*.

Franking credit

The franking credit from franking entities is shown at:

- **M** **Franking credit** item **11**, if received directly from a paying company
- **D** **Share of franking credit from franked dividends** item **8**, if received indirectly through another partnership or trust.

Do not show the franking credit if the trustee or partnership was not a qualified person – see page 78 – for the dividend.

Australian franking credits from a New Zealand company

The Australian franking credits attached to franked dividends received directly or indirectly from a New Zealand franking company are shown at **D** **Australian franking credits from a New Zealand company** item **20**. If received indirectly through another partnership or trust, do not show the franking credit if the trustee or partnership was not a qualified person – see page 78.

Show expenses claimed against earning dividend income at item **14 Deductions relating to Australian investment income**.

T In certain cases, if there are no beneficiaries presently entitled to some or all of the income of the trust, there will be an amount of the taxable net income of the trust that is not assessable income of the beneficiaries. In these circumstances the trustee is liable to pay tax on that income and – providing the trustee is a qualified person in relation to the dividend – is entitled to a tax offset for the amount, or proportional amount, of the franking credit. Where the amount of the franking credit to which the trustee is entitled exceeds the trustee's basic income tax liability, the excess will only be refundable if the net income is assessed under section 99.

The share of the partnership's net income or loss distributed to a resident partner, or the share of the trust's net income assessable to a resident beneficiary, is shown on the partner's or beneficiary's own tax return.

If that share includes some or all of the franked dividends paid to the partnership or trust, the partner or beneficiary who is a resident individual is entitled to a tax offset equal to their share of franking credits attached to the franked dividends, undiminished by the expenses of the partnership or trust.

For the franking credits to flow to a partner or beneficiary, both the partner or beneficiary and the partnership or trustee must be qualified persons (satisfying the holding period and related payments rules).

Non-resident partners and beneficiaries

Non-resident partners and non-resident presently entitled beneficiaries are not liable to pay any Australian tax on franked amount of dividends. Unfranked dividends and the unfranked part of franked dividends, if any, are subject to withholding tax.

Share traders

Traders of shares (including non-share equity interests) who operated as a partnership or trust and received dividends during the income year must show them at item **11 Dividends**.

Exempt dividends

Keep supporting records if the partnership or trust claims that the whole or part of any dividend, bonus share issue or other distribution is exempt from tax – for example, because FTDT has been paid on the amount. For more information, see pages 14 and 17.

Foreign source dividends

Foreign source dividends (other than dividends from a New Zealand franking company) are not subject to the imputation rules. However, they are usually included in the assessable income of the partnership or trust. If the partnership or trust receives foreign source dividends, other than dividends that qualify as non-assessable non-exempt income under sections 23AI and 23AK, include these amounts at item **20 Other assessable foreign source income**.

Unfranked dividends

An unfranked dividend includes the unfranked part of a partly franked dividend.

Interest paid to non-residents

P

Interest paid includes amounts in the nature of interest. If the partnership paid or credited any amounts in the nature of interest to a non-resident of Australia or has received unfranked dividends and/or interest on behalf of a non-resident of Australia, attach a statement to the partnership tax return showing the amount paid, credited or received on behalf of the non-resident and whether withholding tax was deducted. If it was not deducted, state why. Print **YES** in the **Have you attached any 'other attachments'?** box at the top of page 1 of the tax return. For more information on other attachments to the tax return, see page 10.

APPENDIX 2 ROYALTIES

Royalties include considerations of any kind paid or credited for:

1 the use of, or right to use:
  - a) any copyright, patent, design or model, plan, secret formula or process, trademark or other like property or right
  - b) industrial, commercial or scientific equipment
  - c) motion picture films
  - d) films or video tapes for use with television
  - e) tapes for use with radio broadcasting
  - f) visual images and or sounds transmitted by satellite, cable, optic fibre or other similar technology, in connection with television or radio broadcasting
  - g) capacity covered by a spectrum licence under the *Radio Communications Act 1992*

2 the supply of scientific, technical, industrial or commercial knowledge or information

3 the supply of any assistance that is ancillary and subsidiary to, and is furnished as a means of enabling the application or enjoyment of any property, right, equipment, knowledge or information mentioned in 1a, 1b or 2

4 the reception of, or the right to receive, visual images and or sounds transmitted to the public by satellite, cable, optic fibre or similar technology

5 the total or partial forbearance in respect of the previously listed activities.

Show royalties derived by an Australian resident as income in the normal manner.

Royalties paid by a resident to a non-resident may be subject to withholding tax. The rate for royalties is 30%; however, if there is a double tax agreement, the rate may be reduced to 5% or 10%.

For more information on the definition of royalty, see *Taxation Ruling IT 2660 – Income tax: definition of royalties*.

Record keeping

If the partnership or trust claims a deduction for royalties paid or credited, keep a record of the name and address and the amounts paid or due to each person. If payment was made to a non-resident, keep details on whether or not tax has been paid or an amount withheld to provide for tax payable by the non-resident.

APPENDIX 3 THIN CAPITALISATION

The thin capitalisation provisions reduce certain expenditure (called 'debt deductions') incurred in obtaining and servicing debt where the debt used to finance the Australian operations of a partnership or trust exceeds the limits set out in Division 820 of the ITAA 1997. These rules ensure that taxpayers fund their Australian operations with an appropriate amount of equity.

Do the thin capitalisation rules apply?

P Subject to two exclusions listed below, the thin capitalisation rules will apply to a partnership if:

- the partnership has at least one partner which is an Australian resident (an Australian partnership) and either:
  - the partnership, or any of its associate entities, is an Australian controller of an Australian controlled foreign entity (explained below) or carries on business overseas at or through a permanent establishment, or
  - that partnership is foreign controlled, either directly or indirectly (see below), or
- the partnership does not have any partners that are Australian residents and the partnership carries on business in Australia at or through a permanent establishment or otherwise has assets that produce assessable income.

T Subject to two exclusions listed below, the thin capitalisation rules will apply to a trust if:

- the trust is an Australian trust as defined in section 338 of the ITAA 1936, and either:
  - the trust, or any of its associate entities, is an Australian controller of an Australian controlled foreign entity (explained below) or carries on business overseas at or through a permanent establishment, or
  - the trust is foreign controlled, either directly or indirectly (see below), or
- the trust is a foreign resident and carries on business in Australia at or through a permanent establishment or otherwise has assets that produce assessable income.

Exclusions

The thin capitalisation rules will **not** apply if:

- the partnership's or trust's debt deductions (combined with the debt deductions of its associate entities) do not exceed $250,000 in the income year, or
- in the case of an Australian partnership or an Australian trust which is not foreign controlled, the combined value of the partnership's or trust's Australian assets and the Australian assets of its associates comprise at least 90% of the value of the total assets of the partnership or trust and those associates.

Control

The rules measuring control take into account both direct and indirect interests that the partnership or trust holds in the other entity (or vice-versa), and the direct and indirect interests that associate entities of the partnership or trust hold in the other entity. This means that an Australian partnership or an Australian trust can be an Australian controller of a foreign entity even if it holds a direct interest of less than 50% in the foreign entity. Additionally, an Australian trust is foreign controlled where a foreign entity is in a position to control the trust.

What if the thin capitalisation rules apply?

If the thin capitalisation rules apply to the partnership or trust, or further information is required, see the *Guide to thin capitalisation*, available on our website. If the thin capitalisation rules apply, the partnership or trust must complete the *Thin capitalisation schedule 2007*, unless the partnership or trust was a subsidiary member of a consolidated group at any time during the income year and has completed **Z2 Consolidated subsidiary member** item **2**.

Post the completed schedule to:

Australian Taxation Office
PO Box 1365
ALBURY NSW 2640

Thin capitalisation transitional provision

Under the transitional provision – section 820-45 of the *Income Tax (Transitional Provisions) Act 1997* (IT(TP)A 1997) – you can choose to calculate your thin capitalisation position using Australian accounting standards as they existed on 31 December 2004.

If you choose to use the transitional provision, indicate this choice on the *Thin capitalisation schedule 2007*.

For more information visit our website **www.ato.gov.au**

What if the thin capitalisation rules are breached?

If the thin capitalisation rules are breached, some of the partnership's or trust's debt deductions may be denied. The amount denied for business income is shown in **B Expense reconciliation adjustments** item **5**. If the partnership or trust incurred debt deductions for other types of income – for example, rental income, dividend income or foreign income – the amount of deductions shown at the relevant labels must exclude the debt deductions denied.

APPENDIX 4 COMMERCIAL DEBT FORGIVENESS

If a commercial debt owed by the partnership or trust is forgiven during the income year, apply the net amount of debts forgiven to reduce the partnership's or trust's deductible revenue losses, net capital losses, certain undeducted revenue or capital expenditure and the cost base of CGT assets, in that order.

A debt is a commercial debt if any part of the interest payable on the debt is or would be an allowable deduction, or would be a deduction if not for some specific exception provision. If interest is not payable, the debt is still a commercial debt if interest, if charged, would have been deductible.

A debt is forgiven if the partnership's or trust's obligation to pay the debt is released or waived or otherwise extinguished other than by payment of the whole debt in cash.

A debt is also forgiven if it is assigned by a creditor to an associate of the debtor or in certain other circumstances, or if the right to recover it ceases.

Calculation of net forgiven amount

Calculate the net forgiven amount as follows:

1 Determine the notional value of the debt. In the general case, this is the lesser of:
   - the value of the debt at the time of forgiveness (assuming the partnership or trust was solvent at the time the debt was incurred and the partnership's or trust's creditworthiness has not changed from the time the debt was incurred), and
   - the sum of the value of the debt at the time the debt was forgiven (based on the above assumptions and assuming that any market variables remain constant) and any amounts allowable as deductions on termination of the debt attributable to changes in market variables. This would occur because of a decrease in value of the debt due to market movements.

   Special rules apply in calculating the notional value of non-recourse debt and in respect of debt parking circumstances – see sections 245-60 and 245-61 of Schedule 2C to the ITAA 1936.

2 Calculate the gross forgiven amount of the debt by deducting from the notional value of the debt any amount of consideration in respect of the forgiveness. This consideration normally is the sum of the amounts of money the partnership or trust is required to pay in respect of the forgiveness or, if property is required to be given, the market value of the property. Special rules apply in determining the consideration given for the forgiveness if a debt is forgiven in exchange for shares, if there are debt parking circumstances, or if money or property is applied for the benefit or at the direction of the creditor – see sections 245-65 and 245-70 of Schedule 2C to the ITAA 1936.

3 Reduce the gross forgiven amount by any amount:
   - which has been, is, or will be, included in the partnership's or trust's assessable income as a result of the forgiven debt
   - by which a deduction otherwise allowable to the partnership or trust has been or will be reduced as a result of the forgiven debt except for a reduction under Division 727 (indirect value shifting) of the ITAA 1997, and
   - by which the cost base to the partnership or trust of any CGT asset has been or will be reduced, as a result of the forgiveness of the debt under Part 3-1 or 3-3 of the ITAA 1997.

4 The balance remaining is the net forgiven amount of that debt. Then add the net forgiven amount to the net forgiven amounts of other debts forgiven during the income year to arrive at the total net forgiven amount in respect of the income year.

Application of total net forgiven amount

Apply this total net forgiven amount to reduce the amounts the partnership or trust has in the following categories, in the order listed:

- deductible revenue losses
- deductible net capital losses
- deductible expenditure, and
- cost bases of certain CGT assets.

Within the relevant category, the partnership or trust may choose the relevant loss, item of expenditure or asset against which the total net forgiven amount is applied, provided it is applied to the maximum extent possible within that category. Once the total net forgiven amount is applied against all the amounts in a category, apply any excess, in the above order, against the next category. If there is an excess remaining after applying the amount to the maximum extent possible against all categories, disregard this excess. However, see page 84 for special rules applying in the case of certain partnerships.

Deductible revenue losses

These are:

- tax losses
- foreign losses of pre-1990 income years, and
- foreign losses of post-1989 income years

which were incurred by the partnership or trust in an earlier income year and are undeducted at the beginning of the forgiveness year.

Deductible net capital losses

These are unrecouped net capital losses incurred in income years before the forgiveness year.

Deductible expenditure

Deductible expenditure is limited to expenditure incurred before the forgiveness year which remains undeducted but which, on conditions prevailing at the beginning of the forgiveness year, would be deductible in that year or future years. The deductible expenditures are:

- cost of plant or articles used – or installed ready for use – to produce assessable income
- expenditure deductible under Division 40 – uniform capital allowances – of the ITAA 1997
- expenditure on pooled Subdivision 46-D software
- expenditure incurred in borrowing money to produce assessable income
- expenditure on a telephone line on land on which a business of primary production is carried out
- expenditure in connecting or upgrading mains electricity facilities on land used or intended for use in producing assessable income
- expenditure on scientific research
- expenditure on R&D activities
- expenditure in connection with clearing and preparing land for primary production
- expenditure on establishing a grapevine
- expenditure on plant or structural improvements for conserving or conveying water
- expenditure on certain kinds of plant and equipment for use in very large development projects
- expenditure on studies to evaluate the environmental impact of an income-producing project
- advance revenue expenditure
- expenditure incurred in relation to mining or quarrying operations
- expenditure incurred on exploration or prospecting for minerals or quarry materials
- expenditure incurred in transporting minerals or quarry materials
- expenditure on forestry roads to an area of timber operations
- expenditure on timber buildings used for a timber milling business, if the buildings are in a forest or adjacent to a timber milling or timber felling area
- expenditure on acquiring a unit of industrial property to produce assessable income
- expenditure on acquiring an item of intellectual property to produce assessable income
- expenditure on assessable income-producing buildings and other capital works
- expenditure incurred in establishing horticultural plants
- expenditure incurred in obtaining a spectrum licence to produce assessable income.

There are two principal methods of reducing deductible expenditures:

- If the deduction is calculated as a percentage of a base amount – for example, deductions for decline in value of depreciating assets calculated under the prime cost method – make the reduction to the base amount.

  The effect is that deductions allowable in the forgiveness year and later years are reduced. Also, the total amount of deductions allowable is limited to the reduced base amount. The amount of the reduction is treated as if it had been a deduction when calculating any required balancing adjustment amount.
- If the deduction for a particular deductible expenditure is a percentage, fraction or proportion of an amount worked out after taking into account any deductions for the deductible expenditure previously allowed to the partnership or trust – for example, deductions for decline in value of depreciating assets calculated under the diminishing value method – the forgiven amount is taken to have been allowed as a deduction before the forgiveness income year.

If, as a result of the recoupment of a particular deductible expenditure, a provision of the ITAA 1936 or the ITAA 1997 applies to disallow any deductions previously allowed to the partnership or trust in respect of the expenditure, the total net forgiven amount previously applied in the reduction of the recouped deductible expenditure is treated as assessable income in the year of recoupment.

Cost bases of certain CGT assets

Cost bases of certain CGT assets owned by the partnership or trust at the beginning of the forgiveness year – referred to as reducible assets – are the final category of amounts that may be reduced by the partnership's or trust's total net forgiven amount. Essentially, these are assets where a capital gain or capital loss might arise on a CGT event, such as a disposal, happening to them.

Assets not treated as reducible assets include those for which a capital gain or capital loss will not arise or is unlikely to arise on a CGT event happening to them – for example, CGT assets acquired before 20 September 1985, trading stock or a personal use asset within the meaning of section 108-20 of the ITAA 1997. Also excluded are CGT assets whose cost is deductible, such as depreciating assets.

The partnership or trust may choose the reducible assets whose cost bases are to be reduced and the extent of that reduction. However, the cost base of reducible assets that constitute investments in associates of the partnership or trust must be reduced last. When a partnership or trust chooses to apply an amount in reduction of the relevant cost bases of a particular reducible asset, then at any time from the beginning of the forgiveness income year each of the relevant cost bases – that is, the cost base or reduced cost base – is taken to be reduced accordingly.

Ordinarily, the reduction of a CGT asset's relevant cost base cannot exceed the amount that would have been the reduced cost base of the asset, calculated as if the asset was disposed of at market value on the first day of the forgiveness income year. However, a special rule applies – see subsection 245-190(3) of Schedule 2C to the ITAA 1936 – if an event occurred after the first day of the forgiveness year that would cause the reduced cost base of the asset to be reduced.

The reduction of the relevant cost base of a CGT asset affects the calculation of the amount of the capital gain or capital loss on a CGT event happening to the nominated reducible asset because the relevant cost base that is taken into account in determining the capital gain or capital loss must reflect that reduction.

Special rules

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Special rules apply if a partnership – other than a corporate limited partnership – has a total net forgiven amount, which cannot be fully applied in reducing its categories of amounts set out above. Any part that cannot be applied in that way is allocated to the partners in the proportion they share in the net income or loss of the partnership. The allocated amount is added to the individual partner's net forgiven amounts in calculating the partner's total net forgiven amount. See Subdivision 245-F of Schedule 2C to the ITAA 1936.

APPENDIX 5 CAPITAL WORKS DEDUCTIONS AND OTHER TAX OFFSETS

Capital works deductions

Division 43 of the ITAA 1997 provides for a system of deducting capital expenditure incurred in the construction of capital works used to produce assessable income.

Capital works

Construction costs for the following capital works may be deducted:

- buildings or extensions, alterations or improvements to a building
- structural improvements – such as bridges, retaining walls and sealed roads – or extensions, alterations or improvements to structural improvements
- environmental protection earthworks – see also appendix 6.

You must base deductions for construction costs and structural improvements on actual costs incurred. If it is not possible to genuinely determine the actual costs, provide an estimate by a quantity surveyor or other independent qualified person. The costs incurred by the partnership or trust for the provision of this estimate are deductible as a tax-related expense, not as an expense in gaining or producing assessable income.

Who can claim?

You can only claim a deduction under Division 43 for an income year if the partnership or trust:

- owns, leases or holds part of a construction expenditure area of capital works ('your area')
- incurred the expense, or is an assignee of the lessee or holder who incurred the expense, and
- uses your area to produce income, or in some cases for carrying on research and development activities.

In calculating the partnership's or trust's deduction, identify your area for each construction expenditure area of the capital works. Your area may comprise the whole of the construction area or part of it.

Lessee or holder of capital works

You can claim a deduction for an area leased or held under a quasi-ownership right by the lessee or holder. To claim a deduction the lessee or holder must have:

- incurred the construction expenditure or be an assignee of the lessee or holder who incurred the expenditure
- continuously leased or held the capital works area itself, or leased or held the area that had been so held by previous lessees, holders or assignees since completion of construction, and
- used the area to produce assessable income, or in some cases for carrying on research and development activities.

If there is a lapse in the lease the entitlement to the deduction reverts to the building owner.

Requirement for deductibility

A partnership or trust can deduct an amount for capital works in an income year if:

- the capital works have a 'construction expenditure area'
- there is a 'pool of construction expenditure' for that area, and
- it uses the area in the income year to produce assessable income or carry on research and development activities in the way set out in section 43-140 of the ITAA 1997.

No deduction until construction is complete

You cannot claim a deduction for any period before the completion of construction of the capital works even though the partnership or trust used them, or part of them, before completion. Additionally, the deduction cannot exceed the undeducted construction expenditure for your area.

Capital works are taken to have commenced when the first step in the construction phase starts – for example, the pouring of foundations or sinking of pilings for a building.

Establishing the deduction base

Expenditure for the construction of capital works is deductible if there is a construction expenditure area for the capital works. Whether there is a construction expenditure area for the capital works and how it is identified depends on the following factors:

- the type of expenditure incurred – only construction expenditure (see below) is deductible under Division 43 of the ITAA 1997
- the time the capital works commenced
- the area of the capital works to be owned, leased or held by the entity that incurred the expenditure, and
- for capital works begun before 1 July 1997, the area of the capital works that was at the time of completion intended to be used in a particular manner. See section 43-90 of the ITAA 1997.

Construction expenditure

Construction expenditure includes:

- preliminary expenses such as architect's fees, engineering fees, foundation excavation expenses and costs of building permits
- costs of structural features that are an integral part of the income producing building or income producing structural improvements – for example, lift wells and atriums, and
- some portion of indirect costs.

For an owner/builder entitled to a deduction under Division 43 of the ITAA 1997, the value of the owner/builder's contributions to the work – that is, labour or expertise and any notional profit element – do not form part of construction expenditure. See *Taxation Ruling TR 97/25 – Income tax: property development: deduction for capital expenditure on construction of income producing capital works, including buildings and structural improvements* and addendum.

Construction expenditure does not include expenditure on:

- acquiring land
- demolishing existing structures
- clearing, levelling, filling, draining or otherwise preparing the construction site prior to carrying out excavation work
- landscaping
- plant
- property or expenditure for which a deduction is allowable or would be allowable if the property were for use for the purpose of producing assessable income under another specified provision of the ITAA 1936 or the ITAA 1997.

Construction expenditure area

The construction of the capital works must be complete before the construction expenditure area is determined. A separate construction expenditure area is created each time an entity undertakes the construction of capital works.

For construction expenditure before 1 July 1997, the capital works must have been constructed for a specified use at the time of completion, depending upon the time when the capital works commenced.

The first specified use construction time was 22 August 1979 – see table 43-90 and subsection 43–75(2) of the ITAA 1997. No deduction is available under Division 43 of the ITAA 1997 in respect of capital works which were begun on 21 August 1979 or earlier – see subsection 43-20(1) of the ITAA 1997.

Pool of construction expenditure

The pool of construction expenditure is the portion of the construction expenditure incurred by an entity on capital works which is attributable to the construction expenditure area.

Deductible use

You can only claim a deduction under this Division if the partnership or trust uses your area in a way described in table 43-140 or 43-145 of Subdivision 43-D of the ITAA 1997.

Special rules about uses

Your area is taken to be used for a particular purpose or manner if:

- it is maintained ready for that use, is not used for another purpose and its use has not been abandoned, or
- its use has temporarily ceased because of, for example, construction or repairs or for seasonal or climatic conditions.

Your area is NOT accepted as being used to produce assessable income if:

- it is a building – other than a hotel or apartment building – used for exhibition or display in connection with the sale of all or part of any building, where construction began after 17 July 1985 but before 1 July 1997. If construction commenced after 30 June 1997, buildings that are used for display are eligible
- it is a building – other than a hotel or apartment building – where construction began after 19 July 1982 and

before 18 July 1985 and where it is used or available for use wholly or mainly for residential accommodation
- construction began after 19 July 1982 and before 18 July 1985 and it is used for exhibition or display in connection with:
  - the sale of all or part of any building, or
  - the lease of all or part of the building for use wholly or mainly for or in association with residential accommodation, or
- it is used, or held ready for use, by the partnership or trust or an associate for residential accommodation and it is not a hotel or apartment building – for exceptions to this rule see section 43-170(2) of the ITAA 1997. Associates of the partnership or trustee would include partners or beneficiaries and their spouses and children.

Your area is taken to be used as residential accommodation if it is:
- part of an individual's home – other than a hotel or apartment building, or
- used as a hotel, motel or guesthouse but does not satisfy the definition of a hotel building.

Special rules for hotels and apartments are contained in section 43-180 of the ITAA 1997.

Calculation and rate of deduction

The entitlement to a deduction begins on the date your area is first used to produce assessable income after construction is completed. The first and last years of use may be apportioned. The entitlement to a deduction runs for either 25 or 40 years – the limitation period – depending upon the rate of deduction applicable.

The legislation contains two calculation provisions:
- Section 43-210 of the ITAA 1997 deals with the deduction for capital works which began after 26 February 1992
- Section 43-215 of the ITAA 1997 deals with deductions for capital works which began before 27 February 1992.

Capital works begun before 27 February 1992 and used as described in table 43-140

Calculate the deduction separately for each part that meets the description of your area.

Multiply the construction expenditure by the applicable rate – either 4% if the capital works began after 21 August 1984 and before 16 September 1987 or 2.5% in any other case – and by the number of days in the income year in which the partnership or trust owned, leased or held your area and used it in a relevant way. Divide that amount by the number of days in the year.

Apportion the amount if your area is used only partly to produce assessable income.

The amount claimed cannot exceed the undeducted construction expenditure.

Capital works begun after 26 February 1992

Calculate the deduction separately for each part of capital works that meets the description of your area.

There is a basic entitlement to a rate of 2.5% for parts used as described in table 43-140 – **Current year use**. The rate increases to 4% for parts used as described in table 43-145 – **Use in the 4% manner**.

Undeducted construction expenditure

The undeducted construction expenditure for your area is the part of the construction expenditure the partnership or trust has left to write off. Use it to work out:
- the number of years in which the partnership or trust can deduct amounts for its construction expenditure, and
- the amount that the partnership or trust can deduct under section 43-40 of the ITAA 1997 if your area or a part of it is destroyed.

Balancing deduction on destruction

If a building is destroyed or damaged during an income year, you can claim the remaining amount of undeducted construction expenditure that has not yet been deducted, less any compensation received. If the destruction or demolition is voluntary, the entitlement to a deduction is unaffected.

You can claim the deduction in the income year in which the destruction occurs.

The deduction is reduced where the capital works are used in an income year only partly for the purpose of producing assessable income or for carrying on research and development activities.

For guidelines issued by the Commissioner on these measures, see Taxation Ruling TR 97/25 and addendum.

Infrastructure borrowings

The previous infrastructure borrowings tax concession, which was introduced in 1992 to facilitate private sector investment in certain publicly accessible infrastructure projects, was closed to new projects with effect from 14 February 1997. The provisions relating to the concession are contained in Division 16L of the ITAA 1936 and Chapter 3 of the *Development Allowance Authority Act 1992*.

The lender's interest and amounts in the nature of interest on the infrastructure borrowings are not assessable. Alternatively the lender may choose to be assessed on the amounts and to claim a tax offset of 30%. The borrower's interest and amounts in the nature of interest on the infrastructure borrowings are not deductible. In addition, any profit on the disposal of an infrastructure borrowings instrument is non-assessable; any loss is non-deductible.

The replacement land transport infrastructure tax offset in Division 396 of the ITAA 1997 is a more restricted concession.

The concession is in the form of a tax offset on the taxable interest of a resident lender to an approved infrastructure project. The offset is calculated by applying the general company tax rate to the lender's assessable interest, but may be subject to an upper limit set by the Minister for Transport and Regional Services.

If the lender's interest is subject to a tax offset, the project borrower cannot claim a deduction for a comparable amount of interest.

APPENDIX 6 UNIFORM CAPITAL ALLOWANCES

This appendix refers to the following uniform capital allowance topics:

- balancing adjustment amounts
- deduction for decline in value of depreciating assets
- deduction for environmental protection expenses
- deduction for project pool
- electricity connections and telephone lines
- grapevines and horticultural plants
- hire purchase agreements
- landcare operations and deduction for decline in value of water facility
- limited recourse debt
- loss on the sale of a depreciating asset
- low-value pools
- luxury car leases
- profit on the sale of a depreciating asset
- section 40-880 deduction.

For more information on any of these topics, see the *Guide to depreciating assets 2007*.

> **!** STS TAXPAYERS
>
> Taxpayers in the STS calculate deductions for most of their depreciating assets under the specific STS capital allowance (depreciation) rules – see page 29.

Balancing adjustment amounts

If the partnership or trust ceases to hold or to use a depreciating asset, a balancing adjustment event occurs. For assets subject to the STS rules see **Step 5 Disposal of depreciating assets** on page 31. For assets not subject to the STS rules, the partnership or trust will need to calculate a balancing adjustment amount to include in its assessable income or to claim as a deduction. Show an assessable balancing adjustment amount as an income add back at **Reconciliation items**, **A Income reconciliation adjustments** item **5**. Show a deductible balancing adjustment amount as an expense subtraction at **Reconciliation items**, **B Expense reconciliation adjustments** item **5**.

If the asset was used for both taxable and non-taxable purposes, reduce the balancing adjustment amount by the amount attributable to the non-taxable use. A capital gain or capital loss may arise attributable to that non-taxable use.

Show any profit or loss on the sale of a depreciating asset that has been included in the accounts of the partnership or trust as either an income subtraction at **Reconciliation items**, **A Income reconciliation adjustments** item **5** or an expense add back at **B Expense reconciliation adjustments** item **5**. See **Profit on the sale of a depreciating asset** on page 93 and **Loss on the sale of a depreciating asset** on page 93.

If a balancing adjustment event occurred to a depreciating asset of the partnership or trust during the income year, you may also need to include an amount at **O** item **45 Termination value of intangible depreciating assets** or **W** item **46 Termination value of other depreciating assets**.

Deduction for decline in value of depreciating assets

For assets subject to the STS rules, see **Depreciation expenses, STS taxpayers** on page 29. For assets not subject to the STS rules, the decline in value is generally worked out using either the prime cost or diminishing value method. Both methods are based on the effective life of an asset. For most depreciating assets, the partnership or trust can choose whether to self-assess the effective life or to adopt the Commissioner's determination in *Taxation Ruling TR 2006/5 – Income tax: effective life of depreciating assets* (applicable from 1 July 2006 to 31 December 2006) and *TR 2006/15 - Income Tax: effective life of depreciating assets* (applicable from 1 January 2007*).*

The partnership or trust can deduct an amount equal to the decline in value of a depreciating asset for the period that it holds the asset during the income year. However, the deduction is reduced to the extent the asset is used or installed ready for use for other than a taxable purpose.

The decline in value of a depreciating asset costing $300 or less is its cost (but only to the extent the asset is used for a taxable purpose) if the asset satisfies all of the following requirements:

- It is used predominantly for the purpose of producing assessable income that is not income from carrying on a business.
- It is not part of a set of assets acquired in the same income year that costs more than $300.
- It is not one of any number of substantially identical items acquired in the same income year that together cost more than $300.

You can allocate certain assets that cost less than $1,000 or that have an opening adjustable value of less than $1,000 to a low-value pool to calculate the decline in value. You cannot allocate assets eligible for the immediate deduction to a low-value pool.

If the partnership or trust is not an STS taxpayer, show the deduction for decline in value of depreciating assets used in carrying on a business as an expense subtraction at **Reconciliation items**, **B Expense reconciliation adjustments** item **5**.

This amount is often different from the amount of depreciation calculated for accounting purposes shown at **Expenses**, **K Depreciation expenses** item **5** so you will need to include the amount at **K** as an expense add back at **Reconciliation items**, **B Expense reconciliation adjustments** item **5**.

Show deductions for the decline in value of depreciating assets used to earn rental income, earn interest or dividends or used by the partnership or trust in the management of its tax affairs at **H Other rental deductions** item **9**, item **14 Deductions relating to Australian investment income**, or item **15 Other deductions**, respectively.

For information about where to show deductions for depreciating assets in a low-value pool see **Low-value pools** on page 93.

T If a trust can claim a deduction for the decline in value of a water facility, a grapevine or a horticultural plant, the amount is part of the deduction for decline in value of depreciating assets included either at **Expenses**, **K Depreciation expenses** item **5** for STS taxpayers, or as an expense subtraction at **Reconciliation items**, **B Expense reconciliation adjustments** item **5**. You will also need to include the amount of deduction for the decline in value of a water facility at item **52 Landcare operations** and deduction for decline in value of water facility.

P A partnership cannot claim a deduction for the decline in value of these depreciating assets.

See **Landcare operations and decline in value of water facility** on page 91 and **Grapevines and horticultural plants** on page 90 for more information.

To calculate the deduction for decline in value of most depreciating assets, use worksheet 1 and worksheet 2 in the *Guide to depreciating assets 2007*.

Deduction for environmental protection expenses

The partnership or trust can deduct expenditure to the extent that it is incurred for the sole or dominant purpose of carrying on environmental protection activities (EPA). EPA are activities undertaken to prevent, fight or remedy pollution or to treat, clean up, remove or store waste from the partnership's or trust's earning activity. The earning activity is one the partnership or trust carried on, carries on or proposes to carry on for the purpose of:
- producing assessable income (other than a net capital gain)
- exploration or prospecting, or
- mining site rehabilitation.

The partnership or trust may also claim a deduction for cleaning up a site on which a predecessor carried on substantially the same business activity.

The deduction is not available for:
- EPA bonds and security deposits
- expenditure for acquiring land
- expenditure for constructing or altering buildings, structures or structural improvements
- expenditure to the extent that the partnership or trust can deduct an amount for it under another provision.

Expenditure which forms part of the cost of a depreciating asset is not expenditure on EPA.

You can write off expenditure incurred on or after 19 August 1992 on certain earthworks constructed as a result of carrying out EPA at the rate of 2.5% per annum under the provisions for capital works expenditure.

You cannot claim a deduction for expenditure on an environmental assessment of a project of the partnership or the trust as expenditure on EPA. If it is capital expenditure directly connected with a project, it could be a project amount for which a deduction would be available over the project life – see **Deduction for project pool** below.

If the deduction arises from a non-arm's length transaction and the expenditure is more than the market value of what it was for, the amount of the expenditure is instead taken to be that market value.

Include any recoupment of the expenditure as assessable income at **G** or **H Other business income** item **5**, or as an income add back at **Reconciliation items**, **A Income reconciliation adjustments** item **5**.

Include the deduction for environmental protection expenses at **Expenses**, **N All other expenses** item **5**, or as an expense subtraction at **Reconciliation items**, **B Expense reconciliation adjustments** item **5**. Also show the amount of the deduction at **V Deduction for environmental protection expenses** item **53**.

Deduction for project pool

You can allocate certain capital expenditure incurred after 30 June 2001 directly connected with a project that is carried on, or proposed to be carried on, for a taxable purpose to a project pool and write it off over the project life.

A project is carried on if it involves a continuity of activity and active participation. Merely holding a passive investment such as a rental property would not be regarded as carrying on a project.

The capital expenditure, known as a project amount, must be expenditure incurred:
- to create or upgrade community infrastructure for a community associated with the project – this expenditure must be paid, not just incurred, to be a project amount
- for site preparation for depreciating assets (other than in draining swamp or low-lying land or in clearing land for horticultural plants including grapevines)
- for feasibility studies for the project
- for environmental assessments for the project
- to obtaining information associated with the project
- in seeking to obtain a right to intellectual property
- for ornamental trees or shrubs.

Project amounts also include mining capital expenditure and transport capital expenditure.

The expenditure must not otherwise be deductible or form part of the cost of a depreciating asset.

If the expenditure incurred arises from a non-arm's length dealing and is more than the market value of what it was for, the amount of the expenditure is taken to be that market value.

The deduction for project amounts allocated to a project pool commences when the project starts to operate.

If your project pool contains only project amounts incurred on or after 10 May 2007 and the project starts to operate on or after that date, your deduction is calculated as follows:

$$\frac{\text{Pool value} \times 200\%}{\text{DV project pool life}}$$

Certain projects may be taken to have started to operate before 10 May 2007 – for example, if a project is abandoned and then restarted on or after 10 May 2007 just so deductions can be calculated using the above formula.

For other project pools, the deduction is calculated using the following formula:

$$\frac{\text{Pool value} \times 150\%}{\text{DV project pool life}}$$

The **DV project pool life** is the project life or, if that life has been recalculated, the most recently recalculated project life. Determine the project life by estimating how long (in years and fractions of years) it will be from when the project starts to operate until it stops operating. Generally, a project starts to operate when the activities that will produce assessable income start. The project life is estimated from the perspective of the partnership or trust but the event used to determine when the project will stop operating must be something outside its control.

The **pool value** for an income year is broadly the sum of the project amounts allocated to the pool up to the end of that year less the sum of the deductions claimed for the project pool in previous years or that could have been claimed had the project operated wholly for a taxable purpose.

The pool value can be subject to adjustments.

If there is an entitlement to a GST input tax credit for expenditure allocated to a project pool, reduce the pool value by the amount of the credit. You will also need to adjust the pool value for certain increasing or decreasing adjustments for expenditure allocated to a project pool.

The pool value can also be subject to adjustment under the forex provisions. A relevant foreign exchange (forex) gain or loss may arise if, during an income year beginning on or after 1 July 2003, the partnership or trust ceased to have an obligation to pay foreign currency where the obligation was incurred as a project amount allocated to a project pool. If the amount was incurred after 30 June 2003 (or earlier, if so elected) and became due for payment within 12 months after it was incurred, then the pool value for the income year in which the amount was incurred is increased by any forex loss and decreased by any forex gain. If the forex gain exceeds the pool value, reduce the pool value to zero and the excess gain is assessable. This is known as 'the 12 month rule'. In limited circumstances a partnership or trust may elect out of the 12 month rule. For more information, see *Forex – election out of the 12 month rule* on our website. If it has been elected that the 12 month rule should not apply, any forex gain will be assessable and any forex realisation loss will be deductible in accordance with the forex measures. For more information about the forex measures, see page 5 or visit our website and search for 'forex'.

The deduction for project amounts allocated to a project pool cannot be more than the amount of the pool value for that income year.

There is no need to apportion the deductions if the project starts to operate during the income year for project amounts incurred during the year. However, the deduction is reduced for the extent to which the project is operated for other than a taxable purpose during the income year.

If the project is abandoned, sold or otherwise disposed of, you can claim a deduction for the sum of the closing pool value of the prior income year (if any) plus any project amounts allocated to the pool during the income year, after allowing for any necessary pool value adjustments. A project is abandoned if it stops operating and will not operate again.

Any amount received for the abandonment, sale or other disposal of a project is assessable income.

If an amount of capital expenditure allocated to a project pool is recouped or if a capital amount is derived in relation to a project amount or something on which a project amount was expended, include the amount in assessable income.

If any receipt arises from a non-arm's length dealing and the amount is less than the market value of what it was for, the amount received is taken to be that market value.

Include any deduction for project pool as an expense subtraction at **Reconciliation items**, **B Expense reconciliation adjustments** item **5**. You must also show the deduction at item **47 Deduction for project pool**.

The partnership or trust must add back any capital expenditure allocated to the pool that has been included as an expense at item **5**. Show the amount as an expense add back at **Reconciliation items**, **B Expense reconciliation adjustments** item **5**.

Include assessable income at **G** or **H Other business income** item **5** or as an income add back at **Reconciliation items**, **A Income reconciliation adjustments** item **5**.

Electricity connections and telephone lines

P Expenditure on electricity connections and telephone lines incurred in partnership is allocated to each partner and the relevant deduction is available to them. It is not available in calculating the net income or loss of a partnership.

The partnership must add back any such capital expenditure included as an expense at item **5**. Show the amount as an expense add back at **Reconciliation items**, **B Expense reconciliation adjustments** item **5**.

T A trust can claim a deduction over 10 years for capital expenditure incurred in connecting:

- mains electricity to land on which a business is carried on or in upgrading an existing connection to that land, or
- a telephone line to land being used to carry on a primary production business.

Show the deduction as an expense subtraction at **Reconciliation items**, **B** **Expense reconciliation adjustments** item **5**.

The trust must add back any capital expenditure on electricity connections and phone lines included as an expense at item 5. Show the amount as an expense add back at **B** **Expense reconciliation adjustments** item **5**.

Any recoupment of the expenditure is included as assessable income at **G** or **H** **Other business income** item **5**, or as an income add back at **Reconciliation items**, **A** **Income reconciliation adjustments** item **5**.

Grapevines and horticultural plants

P Expenditure on establishing grapevines and horticultural plants incurred in partnership is allocated to each partner and the relevant deduction is available to them. It is not available in calculating the net income or loss of a partnership.

The partnership must add back any such capital expenditure included as an expense at item **5**. The amount should be shown as an expense add back at **Reconciliation items**, **B** **Expense reconciliation adjustments** item **5**.

Legislation removing the accelerated income tax write-off for grapevines came into effect on 1 October 2004. **T**

Any grapevines planted and used in a primary production business prior to 1 October 2004 continue to be deductible using an annual rate of 25%. However, grapevines planted on or after 1 October 2004 are dealt with under the provisions relating to horticultural plants.

Grapevines planted on or after 1 October 2004:

- Deductions for the decline in value of a grapevine can only be claimed from the income year in which the grapevine's first commercial season starts, not when it is first used in a primary production business.
- The decline in value of a grapevine will not be worked out at an annual rate of 25% but will be based on the effective life of the grapevine.

The Commissioner has determined effective lives for grapevines as follows:

Horticultural plants	Effective life (years)
Grapevines, dried	15
Grapevines, table	15
Grapevines, wine	20

The income tax law provides an annual write-off rate for a horticultural plant with an effective life of 13 to fewer than 30 years of 13%.

Alternatively a taxpayer can estimate their own effective life for grapevines.

The deduction for decline in value of grapevines and horticultural plants is part of the deduction for decline in value of depreciating assets which is included either at **Expenses**, **K** **Depreciation expenses** item **5** if the trust is an STS taxpayer, or as an expense subtraction at **Reconciliation items**, **B** **Expense reconciliation adjustments** item **5**.

If the trust has included any expenditure on establishing grapevines or horticultural plants as an expense at item **5**, include that amount as an expense add back at **B** **Expense reconciliation adjustments** item **5**.

Hire purchase agreements

Hire purchase and instalment sale agreements of goods are treated as a sale of the property by the financier (or hire purchase company) to the hirer (or instalment purchaser).

The sale is treated as being financed by a loan from the financier to the hirer at a sale price of either their agreed cost or the arm's length value of the property. The periodic hire purchase (or instalment) payments are treated as payments of principal and interest under the notional loan. The hirer can claim a deduction for the interest component, subject to any reduction required under the thin capitalisation rules.

In relation to the notional sale, the hirer of a depreciating asset may be entitled to claim a deduction for the decline in value. The cost of the asset for this purpose is taken to be the agreed cost or value, or the arm's length value if the dealing is not at arm's length. For assets subject to the STS depreciation rules, see page 29. For assets not subject to the STS depreciation rules, see **Deduction for decline in value of depreciating assets** on page 87.

If the partnership or trust has included any hire purchase charges for the goods at item **5**, include the amount at **Reconciliation items**, **B Expense reconciliation adjustments** item **5** as an expense add back. Include the deduction for the interest component of the hire purchase payments as an expense subtraction at **B**.

Landcare operations and decline in value of water facility

P Landcare operation expenditure and expenditure for water facilities incurred in partnership is allocated to each partner and the relevant deduction is available to the partner. It is not available in calculating the net income or loss of a partnership.

The partnership must add back any such capital expenditure included as an expense at item **5**. Show the amount as an expense add back at **Reconciliation items**, **B Expense reconciliation adjustments** item **5**.

T A trust can claim deductions for landcare operation expenditure and expenditure for water facilities (see page 92).

Include the deduction for landcare operations either at **Expenses**, **N All other expenses** item **5** or as an expense subtraction at **Reconciliation items**, **B Expense reconciliation adjustments** item **5**.

The deduction for decline in value of a water facility is part of the trust's deduction for decline in value of depreciating assets which is included either at **Expenses**, **K Depreciation expenses** item **5** for STS taxpayers, or as an expense subtraction at **Reconciliation items**, **B Expense reconciliation adjustments** item **5**.

Also show the amount of deductions for landcare operations and the decline in value of a water facility at item **52 Landcare operations and deduction for decline in value of water facility**.

If any capital expenditure on water facilities is included as an expense at item **5**, you will need to include that amount as an expense add back at **Reconciliation items**, **B Expense reconciliation adjustments** item **5**.

Include any recoupment of expenditure on landcare operations or water facilities as assessable income at **G** or **H Other business income** item **5**, or as an income add back at **Reconciliation items**, **A Income reconciliation adjustments** item 5.

Landcare operations

Landcare operations cover what were previously known as land degradation measures. The trust can claim a deduction in the year it incurs capital expenditure on a landcare operation for land in Australia.

Unless the trust is a rural land irrigation water provider, the deduction is available to the extent the trust uses the land for either:

- a primary production business, or
- in the case of rural land, a business for the purpose of producing assessable income from the use of that land – except a business of mining or quarrying.

The trust may claim the deduction even if it is only a lessee of the land.

The deduction for landcare operations has been extended to rural land irrigation water providers for certain expenditure they incur on or after 1 July 2004. A rural land irrigation water provider is an entity whose business is primarily and principally supplying water to entities for use in primary production businesses on land in Australia or businesses (except mining or quarrying businesses) using rural land in Australia. The supply of water by using a motor vehicle is excluded.

If the trust is a rural land irrigation water provider, it can claim a deduction for capital expenditure on a landcare operation for:

- land in Australia that other entities use at the time for carrying on primary production businesses, or
- rural land in Australia that other entities use at the time for carrying on businesses for a taxable purpose from the use of that land (except a business of mining or quarrying) being entities supplied with water by the trust.

A rural land irrigation water provider's deduction is reduced by a reasonable amount to reflect an entity's use of the land for other than a taxable purpose after the water provider incurred the expenditure.

A landcare operation is one of the following:

- erecting fences to separate different land classes in accordance with an approved land management plan
- erecting fences primarily and principally to keep out animals from areas affected by land degradation to prevent or limit further damage and assist in reclaiming the areas
- constructing a levee or similar improvement
- constructing drainage works – other than the draining of swamps or low-lying land – primarily and principally to control salinity or assist in drainage control
- an operation primarily and principally for eradicating or exterminating animal pests from the land
- an operation primarily and principally for eradicating, exterminating or destroying plant growth detrimental to the land
- an operation primarily and principally for preventing or combating land degradation other than by the use of fences

- an extension, alteration or addition to any of the assets described in the first four dot points or an extension of an operation described in the fifth to seventh dot points.

The meaning of landcare operation has been extended to apply to expenditure incurred on or after 1 July 2004 on:

- a repair of a capital nature to an asset which is deductible under a landcare operation
- constructing a structural improvement that is reasonably incidental to levees or drainage works deductible under a landcare operation
- a repair of a capital nature, or an alteration, addition or extension to a structural improvement that is reasonably incidental to levees (or similar improvements) or drainage works deductible under a landcare operation.

An example of a structural improvement that may be reasonably incidental to drainage works is a fence constructed to prevent livestock entering a drain that was constructed to control salinity.

The trust cannot claim a deduction if the capital expenditure is on plant unless it is on certain fences, dams or other structural improvements.

If a levee is constructed primarily and principally for water conservation, it would be a water facility and no deduction would be allowable under these rules. Its decline in value would need to be worked out under the rules for water facilities – see **Water facilities** below.

Water facilities

The trust can claim a deduction for the decline in value of a water facility. A water facility is plant or a structural improvement, or an alteration, addition or extension to plant or a structural improvement, that is primarily or principally for the purpose of conserving or conveying water. Examples of water facilities are dams, tanks, tank stands, bores, wells, irrigation channels, pipes, pumps, water towers and windmills. The meaning of water facility has been extended to include certain other expenditure incurred on or after 1 July 2004:

- a repair of a capital nature to plant or a structural improvement that is primarily or principally for the purpose of conserving or conveying water – for example, if the trust purchases a pump that needs substantial work done to it before it can be used in the business, the cost of repairing the pump may be treated as a water facility
- a structural improvement, or an alteration, addition, extension, to a structural improvement, that is reasonably incidental to conserving or conveying water
- a repair of a capital nature to a structural improvement that is reasonably incidental to conserving or conveying water.

Examples of structural improvements that are reasonably incidental to conserving or conveying water include a bridge over an irrigation channel, a culvert (a length of pipe or multiple pipes that are laid under a road to allow the flow of water in a channel to pass under the road), or a fence preventing livestock from entering an irrigation channel.

A deduction for the decline in value of a water facility can be claimed in equal instalments over three years.

Unless the trust is an irrigation water provider, the expenditure must be incurred primarily and principally for conserving or conveying water for use in a primary production business the trust conducts on land in Australia. The trust may claim the deduction even if it is merely a lessee of the land.

The deduction is reduced where the facility is not wholly used for either:

- carrying on a primary production business on land in Australia, or
- a taxable purpose – for example, producing assessable income.

The deduction for water facilities has been extended to irrigation water providers for expenditure incurred on or after 1 July 2004. An irrigation water provider is an entity whose business is primarily and principally the supply of water to entities for use in primary production businesses on land in Australia. The supply of water by using a motor vehicle is excluded.

If the trust is an irrigation water provider, it must incur the expenditure primarily and principally for the purpose of conserving or conveying water for use in primary production businesses conducted by other entities on land in Australia – being entities supplied with water by the trust. The deduction is reduced if the facility is not used wholly for a taxable purpose.

Limited recourse debt

Under Division 243 of the ITAA 1997, the limited recourse debt rules, you must include excessive deductions for capital allowances as assessable income if expenditure on property has been financed or refinanced wholly or partly by limited recourse debt. This will occur if:

- the limited recourse debt is terminated after 27 February 1998 but has not been paid in full by the debtor, and
- because the debt has not been paid in full, the capital allowance deductions allowed for the expenditure exceed the deductions that would be allowable if the unpaid amount of the debt was not counted as capital expenditure of the debtor. Special rules apply in working out whether the debt has been fully paid.

Limited recourse debt is a debt where the rights of the creditor against the debtor in the event of default in payment of the debt or of interest are limited wholly or predominantly to the property that has been financed by the debt, or is security for the debt, or rights in relation to such property. A debt is also a limited recourse debt if, notwithstanding that there may be no specific conditions to that effect, it is reasonable to conclude that the creditor's rights against the debtor are capable of being limited in that way. Limited recourse debt includes a notional loan under a hire purchase or instalment sale agreement of goods to which Division 240 of the ITAA 1997 applies (see section 243-20 of the ITAA 1997). The rules in section 243-75 apply where

Divisions 243 and 245 (commercial debt forgiveness – see appendix 4) of the ITAA 1997 both apply to the same debt.

Loss on the sale of a depreciating asset

Any such loss included in the accounts will differ from the balancing adjustment amount taken into account for taxation purposes.

If the accounts show a loss on the sale of a depreciating asset under **Expenses**, **N All other expenses** item **5**, show that amount as an expense add back at **Reconciliation items**, **B Expense reconciliation adjustments** item **5**. Also see **Balancing adjustment amounts** on page 87.

Low-value pools

If the partnership or trust has allocated depreciating assets used for different income-producing purposes to its low-value pool – for example, some assets that are used for producing rental income and others that are used in carrying on a business – show the low-value pool deduction at item **15 Other deductions**. However, if all the depreciating assets in the low-value pool are used for the same income-producing purpose, show the deduction for decline in value of the assets in the pool as follows:

- depreciating assets used in carrying on a business: show the deduction as an expense subtraction at **Reconciliation items**, **B Expense reconciliation adjustments** item **5**
- depreciating assets used to produce rental income: show the deduction at **H Other rental deductions** item **9**
- depreciating assets used to produce Australian investment income: show the deduction at item **14 Deductions relating to Australian investment income**.

To calculate the deduction for decline in value of depreciating assets in a low-value pool, use worksheet 2 in the *Guide to depreciating assets 2007*.

Luxury car leases

Luxury car leasing arrangements entered into after 7.30pm, by legal time in the ACT, on 20 August 1996 (other than genuine short-term hire arrangements) are treated as a notional sale and loan transaction.

A leased car, either new or second hand, is a luxury car if its cost exceeds the car limit that applies for the income year in which the lease commences. The car limit for 2006–07 is $57,009.

The cost or value of the car specified in the lease (or the market value if the parties were not dealing at arm's length in connection with the lease) is taken to be the cost of the car for the lessee and the amount loaned by the lessor to the lessee to buy the car.

For the notional loan, divide the actual lease payments into notional principal and finance charge components. The lessee can claim a deduction for that part of the finance charge component for the notional loan applicable for the particular period (the accrual amount), subject to any reduction required under the thin capitalisation rules.

For the notional sale, the lessee is treated as the holder of the luxury car and may be entitled to claim a deduction for the decline in value of the car.

For the purpose of calculating the deduction, the cost of the car is limited to the car limit for the income year in which the lease is granted. For information about where to show the deduction for decline in value, see **Deduction for decline in value of depreciating assets** on page 87.

Alternatively, if the lessee is an STS taxpayer for the income year in which the lease is entered into, the lessee allocates the car to its general STS pool. For the purpose of calculating the deduction under the STS depreciation rules, the cost of the car is limited to the car limit for the income year in which the lease is granted.

In summary, the lessee is entitled to deductions equal to:

- the accrual amount, and
- the decline in value of the luxury car, based on the applicable car limit, unless the car is allocated to the general STS pool.

Both deductions are reduced to reflect any use of the car for other than a taxable purpose.

If the car is allocated to the general STS pool with the cost based on the applicable car limit, see page 29 to calculate the deduction under the STS depreciation rules.

If the lease terminates or is not extended or renewed and the lessee does not actually acquire the car from the lessor, the lessee is treated under the rules as disposing of the car by way of sale to the lessor. This constitutes a balancing adjustment event. If the car is not subject to the STS rules, you must determine any assessable or deductible balancing adjustment amount for the lessee. If the car has been allocated to the lessee's general STS pool, see **Step 5 Disposal of depreciating assets** on page 31.

If you included luxury car lease payments at **Expenses**, **G Lease expenses** item **5**, also include the amount at **Reconciliation items**, **B Expense reconciliation adjustments** item **5** as an expense add back. Include the deduction for the accrual amount as an expense subtraction at **Reconciliation items**, **B Expense reconciliation adjustments** item **5**.

Profit on the sale of a depreciating asset

Any such profit included in the accounts will differ from the balancing adjustment amount taken into account for taxation purposes.

If the accounts show a profit on the sale of a depreciating asset under **G** or **H Other business income** item **5**, include that amount as an income subtraction at **Reconciliation items**, **A Income reconciliation adjustments** item **5**. Also see **Balancing adjustment amounts** on page 87.

Section 40-880 deduction

This section provides a five year write-off for some capital expenditure incurred by the partnership or trust in relation to a past, present or prospective business, provided that:

- the deduction is not denied by another provision, and
- the expenditure is not taken into account under another provision.

As part of new treatment for blackhole expenditure, new rules apply to business-related capital expenditure incurred after 30 June 2005. Section 40-880 deductions are no longer limited to seven specific types of business-related capital expenditure. The partnership or trust may now be able to claim a deduction for capital expenditure it incurs after 30 June 2005:

- in relation to its business
- in relation to a business that it used to carry on – such as capital expenses incurred in order to cease the business
- in relation to a business it proposes to carry on – such as the costs of feasibility studies, market research or setting up the business entity
- as a shareholder, beneficiary or partner to liquidate or deregister a company or to wind up a trust or partnership, provided that the company, trust or partnership carried on a business.

If the partnership or trust incurs expenditure in relation to its existing business, a former business or a proposed business, the expenditure is deductible to the extent the business is, was or is proposed to be carried on for a taxable purpose.

The partnership or trust cannot deduct expenditure in relation to an existing business that is carried on by another entity. However, it can deduct expenditure it incurs in relation to a business that used to, or is proposed to be, carried on by another entity. The expenditure is only deductible to the extent that :

- the business was, or is proposed to be, carried on for a taxable purpose, and
- the expenditure is in connection with
  - the business that was or is proposed to be carried on, and
  - the derivation of income from that business by the partnership or trust.

The deduction cannot be claimed for capital expenditure to the extent that it:

- can be deducted under another provision
- forms part of the cost of a depreciating asset the partnership or trust holds, used to hold or will hold
- forms part of the cost of land
- relates to a lease or other legal or equitable right
- would be taken into account in working out an assessable profit or deductible loss
- would be taken into account in working out a capital gain or a capital loss
- would be specifically not deductible under the income tax laws if the expenditure was not capital expenditure
- is specifically not deductible under the income tax laws for a reason other than that the expenditure is capital expenditure
- is of a private or domestic nature
- is incurred in relation to gaining or producing exempt income or non-assessable non-exempt income
- is excluded from the cost or cost base of an asset because, under special rules in the UCA or capital gains tax regimes respectively, the cost or cost base of the asset was taken to be the market value
- is a return of or on capital (for example, distributions by trustees) or a return of a non-assessable amount (for example, repayments of loan principal).

The partnership or trust deducts 20% of the expenditure in the year it is incurred and in each of the following four years.

If a partner in a partnership is an individual, the non-commercial loss rules may defer the partner's deductions for their share of a loss from a business activity of the partnership – refer to the fact sheet *Non-commercial losses: partnerships*, available on our website, for more information.

Show the section 40-880 deduction as an expense subtraction at **Reconciliation items**, **B** **Expense reconciliation adjustments** item **5**. Also show the amount at item **48 Section 40-880 deduction**.

If you have included any of the expenditure incurred for the income year as an expense at item **5**, show this amount as an expense add back at **Reconciliation items**, **B** **Expense reconciliation adjustments** item **5**.

APPENDIX 7 DEDUCTIONS APPLICABLE TO PARTNERS

P

Capital allowances for primary producers and some landholders

A partnership cannot claim a deduction under Subdivisions 40-F and 40-G of the ITAA 1997 for:

- electricity connections and telephone lines
- grapevines and horticultural plants
- landcare operations and the decline in value of a water facility.

Each partner can claim a deduction in accordance with any agreement on how the expenditure is to be borne or, in the absence of any agreement, according to each partner's interest in the partnership income or loss.

For more information, see the *Guide to depreciating assets 2007*.

Film industry incentives

The conditions under which concessions are available if a partnership invests in or contributes money to the production of a qualifying Australian film are explained in *Australian film industry incentives 2007*.

The concession does not apply in the calculation of the partnership net income or loss but is available instead on the partner's own tax return. Capital expenditure is treated as having been expended by the partners according to any agreements on how the expenditure is to be borne or, in the absence of any agreement, according to each partner's interest in the partnership income. Similarly, film income is apportioned to each partner.

Farm management deposits scheme

The farm management deposits (FMD) scheme reduces fluctuations in a primary producer's income.

A partnership cannot have an FMD or claim a deduction for a deposit to an FMD.

Individual primary producers who carry on, in Australia, a primary production business either as a sole trader, a partner in a partnership or as a beneficiary of a trust estate may be able to claim a deduction in the income year in which they deposit an amount into an FMD. The deposit must be made by or on behalf of only one person. Any withdrawals of the deposits are assessable income to the extent they have been previously claimed as a deduction.

For information about further requirements for the FMD deduction, see question **16 Net farm management deposits and withdrawals** in *TaxPack 2007 supplement* and *Information for primary producers 2007* (NAT 1712–6.2007).

Partnership losses

If a partnership loss is incurred by a partnership in an income year, individual partners can claim a deduction for their share of the partnership loss. A partnership loss is incurred if the allowable deductions – other than deductions allowable under section 82AAT of the ITAA 1936 or Division 36 of the ITAA 1997 – exceed the assessable income of the partnership. The partnership loss is the amount of that excess.

An exception to this is foreign source losses, which are carried forward within the partnership. For more information, see Taxation Determination TD 92/113.

Rules relating to deferral of non-commercial business losses apply to individuals from 1 July 2000. These rules require a partner who is an individual to defer the deduction for their share of a loss from a business activity of the partnership unless the individual is covered by an exception, or the business activity satisfies one of four tests or the Commissioner exercises his discretion. For more information on these rules, see question **15 Deferred non-commercial business losses** in *TaxPack 2007 supplement* and the fact sheet *Non-commercial losses: partnerships*, available on our website.

Research and development expenditure

Companies incorporated in Australia may be eligible for deductions at the rate of 125%, for expenditure incurred on qualifying research and development (R&D) expenditure carried out in Australia. A partner in a partnership of otherwise eligible companies may be eligible for the R&D concession for qualifying expenditure. For information on how a company may claim the R&D tax concession, see the *Research and development tax concession schedule instructions 2007* (NAT 6709–6.2007), available on our website at **www.ato.gov.au/randd**

Superannuation

For information on claiming a deduction for personal superannuation contributions, see *TaxPack 2007 supplement*.

APPENDIX 8 TRUST LOSS AND BAD DEBT LEGISLATION – SCHEDULE 2F TO THE ITAA 1936 T

Legislation was enacted during 1997–98 which affects the deductibility by trusts of prior year losses, debt deductions – bad debts and debt/equity swap amounts – and other current year amounts. These provisions are in Schedule 2F to the ITAA 1936. The following provides a broad overview of the legislation. For more information on the trust loss provisions, family trust elections or interposed entity elections, phone the Business Infoline (see the inside back cover).

Dates of effect

- The measures affecting the deductibility of prior year losses and current year amounts apply from 7.30pm AEST on 9 May 1995.
- The debt deduction provisions apply from 7.30pm AEST on 20 August 1996.
- Provisions affecting the deductibility of quarantined foreign losses apply from 2 October 1997.

The application and transitional provisions are in items 13 to 26 of Schedule 1 to the Trust Loss Act.

Types of trust for the purposes of the legislation

The legislation applies to two broad categories of trusts, referred to in the measures as:

- fixed trusts, where persons have fixed entitlements to all of the income and capital of the trust – see section 272–65 of Schedule 2F to the ITAA 1936, and
- non-fixed trusts (including discretionary trusts) – defined in section 272-70 of Schedule 2F to the ITAA 1936.

Excepted trusts – defined in section 272-100 of Schedule 2F to the ITAA 1936 – include family trusts (as defined in Subdivision 272-D of Schedule 2F to the ITAA 1936, see **Family trust/interposed entity election status** on page 16), complying superannuation funds, complying approved deposit funds, pooled superannuation trusts, deceased estates administered within five years, and fixed unit trusts that are directly or indirectly wholly owned by tax exempt bodies.

Ownership and control tests

If a trust fails a test relating to ownership or control that applies to it under the legislation, the trust may:

- be prevented from deducting its tax losses of earlier income years
- have to work out its net income and tax loss in a special way
- be prevented from deducting certain amounts in respect of debts – that is, debt deductions – incurred in the income year or earlier income years.

Fixed trusts that are not excepted trusts are subject to the 50% stake test, which tests for continuity of majority underlying beneficial ownership of the trust during the relevant periods – see section 269-55 of Schedule 2F to the ITAA 1936. Fixed trusts that are listed widely-held trusts – as defined in section 272-115 of Schedule 2F to the ITAA 1936 – that fail the 50% stake test but pass the same business test – see section 269-100 of Schedule 2F to the ITAA 1936 – may avoid the above consequences. See Division 266 of Schedule 2F to the ITAA 1936 for the ownership tests that apply to fixed trusts.

Non-fixed trusts that are not excepted trusts are subject to:

- the 50% stake test – if applicable
- the control test – see section 269-95 of Schedule 2F to the ITAA 1936, and
- the pattern of distributions test – see section 269-60 of Schedule 2F to the ITAA 1936 – if applicable.

See Division 267 of Schedule 2F to the ITAA 1936 for the ownership and control tests that apply to non-fixed trusts.

These ownership and control tests do not apply to excepted trusts, including family trusts – as defined.

Tracing concessions where fixed entitlements are held by certain kinds of companies, funds or trusts

For the purpose of applying the 50% stake test or the pattern of distribution test to a trust under the legislation, there are concessional tracing rules for fixed entitlements that are held directly or indirectly by:

- a government body
- a special company – as defined
- certain kinds of funds
- a family trust – as defined
- a listed public company, or
- a widely held unit trust.

See sections 272-25 and 272-30 of Schedule 2F to the ITAA 1936.

Income injection test

Under the legislation, a trust – including a family trust – involved in a scheme to take advantage of deductions to the trust may be prevented from making full use of the deductions under the income injection test contained in Division 270 of Schedule 2F to the ITAA 1936.

In general terms, the income injection test applies if under a scheme an ‘outsider’ to the trust – see section 270-25 of Schedule 2F to the ITAA 1936 – provides a benefit to the trust, a benefit is provided to the outsider by the trust, and either of those benefits was provided, or assessable income was derived by the trust, wholly or partly (but not merely incidentally) because a deduction was allowable to the trust.

For the definition of a ‘benefit’, see section 270-20 of Schedule 2F to the ITAA 1936.

APPENDIX 9 INSTRUCTIONS TO TRUSTEES OF DECEASED ESTATES

These instructions will help you complete the trust tax return for a deceased estate, if you are:

- the legal personal representative (LPR)
- a trustee or executor
- an administrator of a deceased estate
- collecting information on behalf of an administrator.

Deceased estates generally

A 'deceased estate' is a trust. Unlike a natural person or a company, a trust is not a legal entity in its own right, but a relationship between a trustee and beneficiaries. The trustee administers the trust property in the best interests of the beneficiaries.

A trust is made up of:

- the assets of a deceased person – the trust property
- the beneficiaries – who, in a typical deceased estate, are those normally named in the will of a deceased person, although in some circumstances the courts may vary the terms of a will. Beneficiaries may include the surviving partner, children and grandchildren, and charitable or scientific institutions and religious bodies, and
- the trustee – who is usually appointed by the deceased person's will. For income tax purposes, the LPR of a deceased estate is the trustee of the deceased estate.

Note that:

- Any tax liabilities of the deceased person are paid out of the deceased estate.
- If the administration of the estate takes some time, assets may earn income, and the estate may incur expenses. A tax return for the trust, as well as an individual return from the beginning of the income year to the date of death, may be required.
- The LPR of the estate is responsible for the payment of any tax payable by the trust.

What you need to do as a legal personal representative

- Notify the Tax Office of the death, so that we can stop the issue of any notices that may cause distress to partners or other relatives. If you know the TFN for the deceased person, quote this in any phone calls or letters to us.
- Lodge a 'date of death' return.

Date of death returns may not need to be lodged for people who obviously have no taxation liability and may not have lodged tax returns for many years – such as taxpayers who were receiving:

- the age pension
- the disability support pension, or
- a Department of Veterans' Affairs (DVA) pension.

In these cases the LPR of the deceased person simply needs to write and tell us the facts.

A date of death return covers the period from the beginning of the income year to the date of the taxpayer's death. Show the name of the taxpayer as **THE LEGAL REPRESENTATIVE OF JOHN CITIZEN DECEASED**, or similar. The return must include:

- all assessable income and deductible losses or outgoings of the deceased person up to the date of death
- a full and true statement of the assets and liabilities of the deceased person at the date of death – for salary and wage earners this is only necessary if the Tax Office asks for it.

The return may also include:

- tax agent's fees and similar expenses incurred by the taxpayer's LPR. These are deductible expenses, and
- medical expenses incurred by the deceased taxpayer and paid by the LPR. A medical expenses tax offset may be allowable for this expenditure.

The LPR can sign the return.

The period from the date of death to the end of the income year is covered by the first return of the deceased estate. Trustees of a deceased estate must use the *Trust tax return 2007*. The trustee needs to apply for a trust TFN by completing an *ABN registration companies, partnerships, trusts and other organisations* (NAT 2939) if an ABN is required or a *Tax file number application or enquiry for a deceased estate* (NAT 3236) if an ABN is not required. Show the name of the trust as **THE ESTATE OF JOHN CITIZEN DECEASED** or similar.

Amounts of assessable income received after death

If amounts of assessable income, including interest, rent, and business or employment income, are received after a taxpayer's death, they are part of the deceased estate. The trustee is then liable for paying any tax due on those amounts.

Recreation leave and long service leave

Amounts of recreation leave and long service leave, ordinarily assessable under sections 26AC and 26AD of the ITAA 1936, are exempt from tax when paid directly to the trustee of a deceased estate.

Dividends

Dividends are usually assessable when they are credited to a taxpayer. However, in the case of a deceased estate, dividends are not assessable until the trustee of the deceased estate has received them.

Payments from friendly society funeral policies

A funeral policy is a type of life insurance policy issued by a friendly society for the sole purpose of providing benefits to pay for the funeral of an insured person. In some instances the policy holder pays a funeral director upfront for a set funeral service and this payment is managed by a friendly society in a funeral policy.

Benefits received by the deceased estate under a friendly society funeral policy that was taken out before 1 January 2003 are exempt from tax.

If the deceased person was insured under a friendly society funeral policy taken out after 31 December 2002, the investment income from the funeral policy is included in the assessable income of the estate, if the estate's trustee:

- instructs the friendly society to pay a funeral director or other party for the insured person's funeral expenses, or
- is reimbursed for the funeral expenses.

In these circumstances the distribution statement issued by the friendly society will advise the amount of income to be included on the trust tax return.

If the policy proceeds are paid to a funeral director, either under a policy assignment or as the nominated beneficiary, they are included in the funeral director's assessable income and no amount needs to be included in the estate's assessable income.

Eligible termination payments (ETPs)

Payments made by employers, superannuation funds or approved deposit funds to the trustee of a deceased person's estate are called 'death benefit ETPs'.

Death benefit ETPs within the deceased person's pension reasonable benefit limit (RBL) are free of tax when passed on to the deceased person's dependants. A dependant includes a surviving spouse or de facto spouse, an ex-spouse, a child under 18 years of age, a person financially dependent on the deceased or a person with whom the deceased had an interdependency relationship.

Generally, death benefit ETPs in excess of the deceased person's pension RBL are taxed in the same way as excessive components of ETPs, at the top marginal tax rate plus Medicare levy (46.5%). However, there are circumstances where a portion of the excessive component may be taxed at a rate less than 45% if the ETP was paid from a superannuation fund. The Tax Office will determine whether part of the excessive component is subject to a lesser tax rate, and will assess the deceased estate accordingly. The 2006–07 RBLs are at **table 15** on page 44.

Capital gains tax

For information on deceased estates and capital gains tax, see the *Guide to capital gains tax 2007*.

Paying tax on the income of deceased estates

A trustee cannot distribute the income or assets of a deceased estate until the debts of the deceased person, including any outstanding tax liabilities, are determined. For taxation purposes, this requires a notice of assessment. Once a notice of assessment is issued, the trustee can deal with the assets of the deceased person in accordance with the will.

A trustee can distribute some of the income or assets to beneficiaries if the trustee is certain that the remainder of the estate is sufficient to cover any outstanding liabilities. Beneficiaries who receive payments of income are considered to be presently entitled to them and they declare them and pay tax on those amounts in their own tax returns.

Any undistributed trust income, or income accumulated in the deceased estate and not paid to or applied to the credit of beneficiaries is treated as income to which 'no beneficiary is presently entitled' – for example, where the administration of an estate is not finalised.

For more information on the term 'presently entitled' and the taxation of trusts, see page 65.

> **NOTE**
> Tax rates applicable to a resident individual – that is, normal tax rates – are applied to the net income to which no beneficiary is presently entitled if the person died less than three years before the end of the year of income.

Example of completing a simple deceased estate return

Page 1

Complete all appropriate items.

If the activities of the executor in the realisation of the deceased estate amount to the carrying on of an enterprise and an ABN is required, complete an *ABN registration companies, partnerships, trusts and other organisations* (NAT 2939) to obtain an ABN. For more information on carrying on an enterprise, see *Miscellaneous Taxation Ruling MT 2000/1 – The New Tax System: the meaning of entity carrying on an enterprise for the purposes of entitlement to an Australian Business Number ('ABN')*.

If an ABN is not required and an ABN registration is not lodged, before completing the trust tax return apply for a trust TFN by completing a *Tax file number application or enquiry for a deceased estate* (NAT 3236).

Executors of deceased estates can also apply online for a TFN by completing the relevant parts of the *Tax file number application for companies and other organisations* (NAT 3799), available at **www.abr.gov.au** and through ELS.

Show the name of the trust as **THE ESTATE OF JOHN CITIZEN DECEASED** or similar. Print code **D** in the CODE box at **Type of trust** and complete the date of death box.

Pages 4 and 5

Complete the appropriate items listed below.

Income

8 Partnerships and trusts

Show at **A** or **B** **Distributions from partnerships** any amount of primary production or non-primary production partnership income.

Show at **Z** or **R** **Distribution from trusts** any amount of primary production or non-primary production trust income received after the date of death.

Show at **S** **Deductions relating to distributions in labels A and Z**, any deductions for the deceased estate's own expenses in relation to distributions of primary production income.

Show at **T** **Deductions relating to distributions in labels B and R** any deductions for the deceased estate's own expenses in relation to distributions of non-primary production income.

Show at **C** **Share of credit for tax withheld where ABN not quoted** any share of credit for tax withheld where an ABN was not quoted.

Show at **D** **Share of franking credit from franked dividends** any share of franking credit from franked dividends.

Show at **E** **Share of credit for TFN amounts withheld from interest and dividends** any share of credit for TFN amounts withheld from interest, dividends and unit trust distributions.

9 Rent

Show at **F** **Gross rent** the gross amount of rent including any booking or letting fees.

Show at **G** **Interest deductions** the total interest expenses incurred in earning rental income.

Show at **X** **Capital works deductions** the total capital works deduction for rental buildings.

Show at **H** **Other rental deductions** the expenses that relate to this rental income.

Show at **Net rent** the net amount of any rent.

10 Gross interest

Show at **J** the interest from banks and credit unions, building societies, debentures, notes and deposits, discounted or deferred interest securities, government securities, Australian Government loans issued before 1 November 1968, and interest paid by the Tax Office.

The total – that is, the gross amount of interest received or credited – must be included in assessable income.

Copy details from all statements to worksheet 3 on page 74. Keep the worksheet with the trust's tax records.

Discounted, deferred interest or capital-indexed securities

Show at **J** the appropriate amount of discount, interest or other gain which accrued this income year on a discounted, deferred interest or capital-indexed security:

- that issued after 16 December 1984
- that had a maturity date of over 12 months from the issue date, and
- where the sum of all payments under the security (except periodic interest – for example, a coupon rate) exceeds its issue price.

TFN amounts withheld from gross interest

Show at **I** **TFN amounts withheld from gross interest** the TFN amounts withheld from gross interest.

> **NOTE**
> We may check the amount shown at item **10** with our own records to determine accuracy. See **Information matching** on page 5.

11 Dividends

Show at **K** **Unfranked amount** the total amount of unfranked dividends, and the unfranked amount of partially franked dividends, received.

Show at **L** **Franked amount** the franked amount of franked dividends received.

Show at **M** **Franked credit** the amount of franking credits received directly from a paying company.

Show at **N** **TFN amounts withheld from dividends** the total of TFN amounts withheld from dividends received.

> **NOTE**
> We may check the amount shown at item **11** with our own records to determine accuracy. See **Information matching** on page 5.

12 Other Australian income

Show at **O** any other income received by the estate after the date of death. Include at **O** salary and wages received after the date of death, the assessable amount of ETPs, and the assessable amount of benefits under friendly society funeral policies taken out after 31 December 2002.

13 Total of items 5 to 12

Show the total income amounts.

Deductions

14 Deductions relating to Australian investment income

Show at **P** the expenses incurred in earning interest and dividends.

15 Other deductions

Show at **Q** any other tax-related expenses. Do not include capital expenses incurred in administering the estate.

16 Total of items 14 and 15

Show the total deduction amounts.

17 Net Australian income or loss

Show at **$** the total amount shown at item **13 Total of items 5 to 12** less the total amount shown at item **16 Total of items 14 and 15**.

18 Capital gains

Show at **A** the net capital gain made by the trustee of the estate. The trustee may need to complete a CGT schedule if the trust has:

- total current year capital gains for the income year greater than $10,000, or
- total current year capital losses for the income year greater than $10,000.

For more information, see the *Guide to capital gains tax 2007*.

> **NOTE**
> Capital losses incurred by the deceased before their death cannot be carried forward to their estate.

21 Total of items 17 to 20

Show the total amount of net Australian income or loss plus any net capital gain amount.

23 Total net income or loss

The amount at item **23** equals the amount at item **21**.

Page 6

Complete **Key financial information** items **29** to **33**.

Page 8

Complete the appropriate items listed below.

59 Statement of distribution

If there has been no distribution of income from the deceased estate, the net income amount shown at item **23 Total net income or loss** is shown at **Share of income**, separated into primary production income and non-primary production income. Print the total at **A** and **B** under **Income to which no beneficiary is presently entitled**.

Print an assessment calculation code at **V** **Assessment calculation code**. For a list of trust assessment calculation codes, see appendix 13.

For lodgment addresses, see page 111.

For payment options, see pages 111–112.

APPENDIX 10 INSTRUCTIONS TO TRUSTEES WHERE A BENEFICIARY IS UNDER 18 YEARS OF AGE – OTHER THAN TRUSTEES OF DECEASED ESTATES

This appendix outlines the application of the special taxation provisions relating to trust income to which beneficiaries under 18 years of age are, or are deemed to be, presently entitled. It will help you complete **O** item **12** and **Excepted net income**.

The basis of the system

Special taxation provisions apply to certain trust income, including capital gains, derived during the income year to which specified beneficiaries under 18 years of age at the end of the income year – that is, minors – are presently entitled.

This includes income to which a beneficiary is deemed to be presently entitled.

Features of the system are outlined below under three main headings. These cover:

- the persons to whom the system applies
- the income to which it applies, and
- allocation of deductions.

Beneficiaries under 18 years of age are referred to as minor beneficiaries or minors. Unless the minor beneficiary is an excepted person or the distribution is excepted income, trust income to which a minor is presently entitled generally is taxed at the higher tax rate plus the Medicare levy. The tax rates that apply are outlined in appendix 11.

There are cases where it is unreasonable for the full amount of the additional tax under the system to be payable on income – for example, in cases of serious hardship. For more information on details of special measures under which release from the obligation to pay some or all of the additional tax may be granted, see appendix 11.

If the trustee considers that the system and the consequential higher tax rates are not applicable for any reason to the whole or part of the trust income to which any minor beneficiary is presently entitled, keep the information set out in the questions on page 104 with the trust's tax records. Some circumstances in which a trustee can ignore these details are set out in **Completion of the questions** on page 102. If the trustee fails to consider and keep the information in the questions, where this is necessary, together with any additional information, it could result in the assessment of the income to the trustee at the higher tax rate provided under the system.

The effect of the system on trust income

The system has no effect on ascertaining the trust net income.

The system can affect an assessment issued to the trustee where a minor beneficiary is presently entitled, but only if the minor is a 'prescribed person' and to the extent that income of the trust to which that beneficiary is presently entitled is eligible income.

Persons to whom the system applies

Prescribed person

The system applies to a prescribed person, who is a beneficiary under 18 years of age at the end of the income year and is not an excepted person.

Excepted person

A person is an 'excepted person' if, on the last day of the income year, any of the following circumstances applied to them:

- They were engaged in a full-time occupation (see below).
- They were entitled to a disability support pension or rehabilitation allowance, or someone was entitled to a carer allowance to care for them.
- They had a medical certificate (or a previous medical certificate for a disability they had that existed on the last day of the income year) that certified that:
  - they were disabled and were likely to suffer from that disability permanently or for an extended period
  - they had a physical or mental disability that prevents them from working in the next two years **and** either the disability prevents them from undertaking education, vocational or on-the-job training in the next two years or they are able to undertake educational, vocational or on-the-job training, but it is unlikely the training will enable them to work within the next two years, or
  - they were permanently blind.
- They were a person who received little or no financial support from relatives and were:
  - entitled to a double orphan's pension, or
  - unable to engage in a full-time occupation because of a permanent mental or physical disability.

A person is regarded as dependent for support on a relative if they live with the relative, unless it can be established that they were not dependent on that relative for financial support.

The meaning of full-time occupation

Occupation includes an office, employment, trade, business, profession, vocation or calling but does not include a course of education at a school, college, university or similar institution. A beneficiary is accepted as being engaged in a full-time occupation on the last day of the income year if:

- they were engaged in full-time employment or business on the last day of the income year, or
- they were engaged in full-time employment or business for three months or more during the income year (ignoring any period of full-time employment or business that was followed by full-time study) **and** on the last day of the income year:
  - they had the intention of continuing in that, or engaging in another, full-time occupation during the whole or most of the following income year, and
  - they had no intention of returning to full-time education at any time during the following income year.

A period during which a person receives youth allowance does not constitute a period of engagement in full-time occupation.

Income to which the system applies

If the minor beneficiary is a prescribed person:

- part of the trust income might be subject to the system – this is referred to as 'eligible income'
- part might be excluded – this part is referred to as 'excepted income'.

Eligible income

Trust income to which a minor beneficiary, who is a prescribed person, is presently entitled, is eligible income except to the extent that the income can be classified as excepted income for the beneficiary. Eligible income is subject to higher tax rates plus the Medicare levy in the hands of the trustee and beneficiary – subject to a credit for tax paid by the trustee.

Excepted income

An amount included in the assessable income of a trust is excepted income only to the extent that the assessable trust income would, if derived by the minor beneficiary, be excepted income.

The amount of excepted income is based on the facts of each individual case.

Income derived by the trust is excepted income to the extent that it is:

- employment income
- income from the estate of a deceased person, either as a result of a will or an intestacy, or a court order modifying a will or the distribution of an intestate estate
- income derived from the investment of any property transferred to the trustee for the benefit of the beneficiary:
  - to satisfy a claim for damages to the beneficiary for loss of parental support, for personal injury, for disease or for impairment of physical or mental condition, or as a settlement made otherwise than by a court order, to the extent that the income is considered to be at a fair and reasonable level
  - as workers' compensation or compensation for criminal injury
  - directly as a result of another person's death and being, under the terms of a life assurance policy, out of a superannuation, provident, benefit or retirement fund, or from an employer of the deceased person
  - out of a public fund established and maintained exclusively for the relief of persons in necessitous circumstances
  - under a decree or order of dissolution or annulment of marriage having effect in Australia by the *Family Law Act 1975*, or recognised as valid in Australia, or a order as the result of a family breakdown
  - as defined in section 102AGA of the ITAA 1936
  - as a verifiable prize beneficially owned by the minor in a legally authorised and conducted lottery

- as an entitlement from a deceased estate
- by transfer from another person, out of property that devolved upon that other person from a deceased estate, and that person transferred it to the trustee within three years of the date of death of the deceased, subject to limitations based on what would have passed to the beneficiary under laws of intestacy.

■ income derived from the investment of any property representing accumulations of income not subject to the system, being from sources as indicated in this paragraph (including where those accumulations were made from income of a prior year) or being savings from exempt income which, if it had not been exempt, would similarly have been excepted income.

Income from an investment made from sources as described above is excepted income and is taxed at normal individual rates. If such an investment is sold or otherwise realised, and the proceeds invested in a different form that represents that earlier property, income from the new investment keeps the character of excepted income.

Exceptions are not available if an arrangement is entered into so that the income is not subject to the system.

In addition, if an arrangement is entered into between persons who are not dealing with each other at arm's length and this results in an amount of excepted income greater than the amount which would have resulted had the parties been dealing at arm's length, only an amount equal to that arm's length amount is excepted from the higher rates of tax.

Business income derived by a trust cannot be excepted income as such, but it may constitute excepted income on some other basis – for example, business income of a deceased estate.

If any part of the trust income is considered to be excepted income, read **Completion of the questions** in the next column and consider **part B** of the questions on page 104. Irrespective of these questions, you must include the income on the trust tax return so that the tax return discloses the total trust income from all sources in the normal way.

Each beneficiary's excepted income component must bear the same proportion to the total trust income as that beneficiary's share of net income bears to the total trust net income. If the trustee considers, for any reason, that there are circumstances that warrant a different determination, attach a statement to the trust tax return setting out the facts and the reasons why. Print **YES** in the **Have you attached any 'other attachments'?** box at the top of page 1 of the tax return.

Employment income

Normally, employment income is derived directly by a minor and thus is excepted income. Occasionally, however, superannuation pensions and similar payments, which are employment income, are paid to a trustee on behalf of a minor. Payments of this kind are excepted income in the hands of the trustee.

Allocation of deductions between eligible and excepted income

In determining the trust income on which a minor has to pay tax, deductions are applied against eligible assessable income of the trust as follows:

- any deductions that relate exclusively to that eligible assessable income. These are indicated on the trust tax return
- so much of any other deductions – other than apportionable deductions – as may appropriately be related to that eligible assessable income
- a proportionate share of any apportionable deductions, most commonly gifts. The formula for calculating this amount is:

$$\frac{E \times A}{N}$$

where:

E **net eligible income – before apportionable deductions**
A **apportionable deductions**
N **net income – before apportionable deductions**.

Completion of the questions

Read all of appendix 10 to find out whether you need to answer the questions on page 104. Do not include the questions with the trust tax return – keep them with the trust's tax records.

The questions are divided into:

- **part A** – relating to the eligibility of the minor beneficiary to be treated as an excepted person, and
- **part B** – relating to the nature of the trust income.

Some of the questions need to be answered if the trustee claims that all or any part of the share of the trust income to which a beneficiary is presently entitled is excepted income – that is, income not subject to tax at the higher rate applicable to a minor.

The questions need **not** be answered by a trustee if:

- no beneficiary is under 18 years of age on the last day of the income year
- the trust is the estate of a deceased person, or
- all of the following apply:
  - The share of trust income to which each resident beneficiary under 18 years of age is presently entitled does not exceed $416 – the low income tax offset of $235 effectively increases the threshold to $772.
  - There is no non-resident beneficiary under 18 years of age on the last day of the income year.

- No beficiary is also a beneficiary in another estate that derives income.
- The trustee is able to certify for each beneficiary that the beneficiary does not need to furnish an individual tax return, or if the beneficiary is required to furnish an individual tax return, the only income on that tax return, other than the share of trust income, is from salary, wages or payment for services rendered.

If the trust does not fall within the exceptions listed above:

- Read and answer **part A** for:
  - any resident beneficiary who is an excepted person unless the trust income to which the beneficiary is presently entitled is less than $416 – the low income tax offset of $235 effectively increases the threshold to $772 – and that beneficiary derives no income from another trust, and
  - any non-resident beneficiary who is an excepted person.
- Do not answer **part B** if all the beneficiaries of the trust are excepted persons and part A has been answered. Part B is answered where:
  - any resident minor beneficiary – being a prescribed person – is presently entitled to trust income in excess of $416
  - the share of net trust income of any resident minor beneficiary, being a prescribed person, is $416 or less – the low income tax offset of $235 effectively increases the threshold to $772 – and the beneficiary is also the beneficiary in another trust, or
  - any non-resident minor beneficiary, being a prescribed person, is presently entitled to $1 or more of trust income.

The minor beneficiary may be entitled to a release from some or all of the tax charged at the higher rate if they face serious hardship. For more information, see appendix 11.

If one or more minor beneficiaries of the trust are excepted persons or a distribution includes excepted income, attach a statement to the tax return with the information requested on page 44. Show the amount of excepted income at both **O** item **12** and **Excepted net income** item **12**.

Part A Read and answer these questions if it is claimed that the beneficiary was an excepted person on the last day of the income year (30 June). If the answer to any question in **part A** is yes, there is no need to answer any more questions in **part A** or **part B**.	Yes or no
Is it claimed that the beneficiary was an excepted person on any of the following grounds?	
■ The beneficiary was in a full-time job on 30 June (or had been in a full-time occupation for at least three months in the period leading up to 30 June).	
Note: If the beneficiary goes back to full-time studies before 1 July 2007, it cannot be claimed that the beneficiary is an excepted person by being in a full-time job.	
■ The beneficiary was entitled to a disability support pension or rehabilitation allowance, or someone for the beneficiary was entitled to a carer allowance on 30 June.	
■ The beneficiary was disabled and was likely to suffer from that disability permanently or for an extended period, or permanently blind. A medical certificate will be needed for the beneficiary to qualify as an excepted person on this basis, but do not attach it to the trust tax return.	
■ The beneficiary, or someone for the beneficiary, was entitled to a double orphan's pension on or for a period of time that included 30 June and the beneficiary did not rely on support from a relative in that time.	
■ The beneficiary was unlikely to have a full-time job owing to a permanent mental or physical disability and the beneficiary did not rely on support from a relative in that time.	

Part B Read these questions if it is claimed that all or part of the trust income during the income year was excepted unless all beneficiaries are excepted persons.	Yes or no	Amount of income
Is it claimed that any part of the trust income is excepted income because it is: ■ in the nature of employment income (not including employment income paid to beneficiaries for services rendered)?		
■ income derived from any property transferred to the trustee for the benefit of the beneficiary in any of the special circumstances in **Excepted income** on page 44?		
■ income derived from the investment of property representing accumulations of income not subject to the system? For more information, see **Excepted income** on page 44.		
Total net excepted income		$
If any excepted income includes a capital gain subject to CGT, show the amount of the capital gain here.		$

NOTE

Net excepted income here means the sum of the gross amounts of excepted income of all prescribed beneficiaries less deductions applicable to those amounts.

Unless adjustments are made, the assessable eligible income of the prescribed beneficiaries is the difference between the total net excepted income of the trust, as calculated above, and the amount of the net income of the trust, as shown at item **23 Total net income or loss** on the trust tax return, less any share of the income in respect of which non-prescribed person beneficiaries are presently entitled and any income to which no beneficiary is presently entitled.

APPENDIX 11 RATES OF TAX PAYABLE BY TRUSTEES ON BEHALF OF BENEFICIARIES UNDER 18 YEARS OF AGE

If a beneficiary is presently entitled to a share of the trust income and is under 18 years of age, the trustee is assessed and is liable to pay tax on that income as if it were the income of an individual. A beneficiary deriving income from other sources in addition to the trust income is assessed on the total income in his/her personal income tax return. A credit is allowed in the individual's return for the amount of tax paid or payable by the trustee on the trust income.

If a beneficiary is under 18 years of age at 30 June in the income year (a minor beneficiary), special taxation provisions apply to their income (eligible income) unless the beneficiary is an excepted person or the income is excepted income.

To work out whether a minor beneficiary is an excepted person or whether their trust income is excepted income or eligible income, see appendix 10.

If a minor beneficiary is an excepted person, the trustee pays tax on the beneficiary's share of net trust income at the normal individual rates, if the beneficiary is a resident, or at non-resident rates if they are a non-resident.

If a minor beneficiary is a prescribed person, the trustee pays tax on the beneficiary's trust income as follows:

- resident beneficiary – pays tax on the excepted trust income at the normal individual rates and pays tax on the beneficiary's eligible trust income at higher rates applicable to a resident
- non-resident beneficiary – pays tax on the excepted trust income at the non-resident rates and pays tax on the beneficiary's eligible trust income at higher rates applicable to a non-resident.

The tax rates for excepted income and eligible income are explained on page 44.

The following notes assume that a trustee is entitled, on behalf of a resident beneficiary, to the full tax-free threshold of $6,000. Where a beneficiary becomes or ceases to be an Australian resident, a reduced tax-free threshold may apply.

Rates for excepted income

If a minor resident beneficiary's share of the trust net income consists wholly of excepted income, or includes an amount of eligible income not exceeding $416 and the beneficiary is not entitled to a share of the net income of any other trust, the trustee pays tax at normal individual rates. If a non-resident minor beneficiary's share of the trust net income consists wholly of excepted income, the trustee pays tax at the rates normally applying to non-residents.

Rates for eligible income

The following table sets out the higher tax rates that apply to the eligible income of a minor who was a **resident** for the full income year.

Eligible income	Tax rate if beneficiary is a resident
$0–$416	Nil*
$417–$1,307	Nil + 66 cents for every dollar over $416
$1,308 and above	45 cents in the dollar of the entire amount

* The first $416 of eligible income is taxed at the normal individual rates. If the beneficiary has no other income, no tax is payable on the first $416. The tax-free amount is effectively increased to $1,333 due to the low-income tax offset of $600.

The following table sets out the higher tax rates that apply to the eligible income of a minor who was a **non-resident** for the full income year.

Eligible income	Tax rate if beneficiary is a non-resident
$0–$416	29 cents in each dollar up to $416
$417–$732	$120.64 + 66 cents for every dollar over $416
$733 and above	45 cents in the dollar of the entire amount

If a beneficiary has distributions of eligible income from more than one trust, the sum of the eligible income from those distributions is taken into account in working out the tax rate to apply.

If a minor beneficiary's share of trust income includes eligible income subject to higher tax rates and also includes excepted income, the tax on the excepted income (and up to $416 of the eligible income if the beneficiary is a resident) is first calculated at normal individual rates as if that income were the taxable income. In this way beneficiaries, who are resident for the full income year, apply the zero rate of tax on the first $6,000 and the 15% rate from $6,001 to $21,600 on the taxable income which is excepted income.

Eligible income is then taxed at the higher rates set out in the relevant table above.

The trustee pays tax in respect of the beneficiary on excepted income at normal individual rates, plus the tax on the eligible income at the higher rate, less allowable tax offsets and other credits.

In a limited number of cases, where eligible income of a resident is within a range with a tax rate less than 47 cents in the dollar as set out in the relevant table above, tax calculated on the beneficiary's share of net trust income at normal individual rates would exceed the tax calculated separately on the excepted income and eligible income components. In such cases, the trustee pays tax on the beneficiary's net trust income at normal individual rates. If the beneficiary is a non-resident, similar calculations are made using the rates that normally apply to non-residents.

Relieving provisions

Until its repeal (effective 1 September 2003), section 102AJ of the ITAA 1936 provided relief in the form of a tax offset. Since 1 September 2003, Part 4-50 of Schedule 1 to TAA 1953 has provided that the Commissioner may grant release from an individual's obligation to pay certain tax liabilities where the Commissioner is satisfied that payment of those liabilities would cause serious hardship. The release provisions also pertain to the minor beneficiary's obligation to pay additional tax pursuant to these provisions.

Beneficiaries who are owners of farm management deposits (FMDs)

If a beneficiary is under a legal disability and is the owner of an FMD made during the year of income, the trustee is not taxed on the share of net income to which the beneficiary is presently entitled. The beneficiary is treated as if no legal disability exists and will be assessed on their individual return, in respect of their share of net income of the trust estate and their claim for the FMD deduction.

APPENDIX 12 ULTIMATE BENEFICIARY NON-DISCLOSURE TAX (UBNT)

Trustees of closely held trusts with trustee beneficiaries presently entitled to net income or tax preferred amounts – non-assessable income and capital – must disclose to the Commissioner the identity of ultimate beneficiaries presently entitled to net income and tax-preferred amounts.

If the trustee of a closely held trust does not correctly identify the ultimate beneficiaries of the net income within the required period, a tax – referred to as ultimate beneficiary non-disclosure tax (UBNT) – is imposed on that part of the net income of the trust at the rate of 46.5%. If the trustee does not disclose the ultimate beneficiaries of tax-preferred amounts, tax is not imposed, but the trustee may be guilty of an offence under TAA 1953.

Trustees of closely held trusts with trustee beneficiaries presently entitled to a share of net income or tax-preferred amounts may be required to complete an *Ultimate beneficiary schedule*.

A closely held trust is:

- a trust where up to 20 individuals have fixed entitlements to 75% or greater share of the income or corpus of the trust, or
- a discretionary trust except where the trust is an excluded trust. See section 102UC(1) of the ITAA 1936.

A discretionary trust is a trust that is not a fixed trust within the meaning of section 272-65 of Schedule 2F. See section 102UC(4) of the ITAA 1936. A trust is a 'fixed trust' if persons have fixed entitlements to all of the income and capital of the trust. See section 272-65 of Schedule 2F to the ITAA 1936.

An excluded trust is:

- a complying superannuation fund, a complying approved deposit fund or a pooled superannuation trust
- a deceased estate, until the end of the income year in which the fifth anniversary of the death occurs
- a fixed trust that is a unit trust and persons, all of whose income is exempt from tax under section 23 or Division 50 of the ITAA 1997, have fixed entitlements, directly or indirectly, and for their own benefit, to all of the income and capital of the trust, or
- a unit trust whose units are listed on the Australian Stock Exchange Limited.

See section 102UC(4) and section 272-100 of Schedule 2F to the ITAA 1936.

A trustee beneficiary is a beneficiary of the trust in the capacity of trustee of another trust. See section 102UD of the ITAA 1936.

Ultimate beneficiary statements can only be amended in certain circumstances. See subsection 102UK(2A) of the ITAA 1936.

Trustees of closely held trusts have the right to seek recovery of ultimate beneficiary tax they paid – including any interest charge – from ultimate beneficiaries, trustee beneficiaries or interposed trustees or partnerships in certain circumstances. See section 102USA of the ITAA 1936.

If required, lodge the *Ultimate beneficiary schedule* by the due date for lodgment of the trust's tax return or such later time allowed by the Commissioner. See section 102UH of the ITAA 1936.

Instructions on how to complete the schedule are on the form.

For more information about Division 6D or assistance in completing the schedule, see media release 2000/107 and associated *Law Administration Practice Statement PS LA 2001/12 – Lodgment of Ultimate Beneficiary Statements,* or phone either the Business or Tax Agents Infoline (see the inside back cover).

APPENDIX 13 TRUST ASSESSMENT CODES

INTER VIVOS TRUSTS – including discretionary trusts	**Assessment codes**	
	Resident beneficiary	**Non-resident beneficiary**
Where the beneficiary is presently entitled to a share of the income of the trust		
Over 18 years of age under a legal disability or an excepted person	25*	125*
A prescribed person receiving excepted income only	26*	126*
A prescribed person receiving eligible income only	27*	127*
A prescribed person receiving excepted and eligible income only	28*	128*
A prescribed person receiving eligible income from more than one trust	29*	129*
Not under any legal disability	30	138*
A company	34	139*
A trustee	35	140**
Where no beneficiary is presently entitled to a share of the income of the trust		
Resident or non-resident trust where no beneficiary is presently entitled to income	36*	
Bankrupt estate	37*	
Resident or non-resident trust where no beneficiary is presently entitled to income and to which subsection 99A(2) of the ITAA 1936 is to be applied	37*	

DECEASED ESTATE	**Assessment codes**	
	Resident beneficiary	**Non-resident beneficiary**
Where the beneficiary is presently entitled to a share of the income of the trust		
Under a legal disability	11*	111*
Not under a legal disability	12	118*
A company	13	119*
A trustee	14	120**
Where no beneficiary is presently entitled to a share of the income of the trust		
Trust where the deceased person died less than three years		
before the end of the income year	15*	
Trust where the deceased person died more than three years		
before the end of the income year	16*	
A non-resident trust	17*	

* Tax assessable to the trustee

** Codes 120 and 140 are new and apply if the beneficiary of the trust is a non resident trustee. See pages 68-69 for more information.

ABBREVIATIONS

AAT	Administrative Appeals Tribunal
ABN	Australian business number
ABR	Australian Business Register
ABS	Australian Bureau of Statistics
ACT	Australian Capital Territory
ADF	approved deposit fund
AEST	Australian eastern standard time (by legal time in the Australian Capital Territory)
ANZSIC	Australian and New Zealand Standard Industrial Classification
BSB	bank state branch
CFC	controlled foreign company
CGT	capital gains tax
CGT schedule	Capital gains tax (CGT) schedule
Commissioner	Commissioner of Taxation
DDR	direct debit request
DES	direct entry system
DGR	deductible gift recipient
DTA	double tax agreement
DVA	Department of Veterans' Affairs
DVS	direct value shifting
EFT	electronic funds transfer
ELS	electronic lodgment service
EPA	environmental protection activities
ETO	entrepreneurs tax offset
ETP	eligible termination payment
FIF	foreign investment fund
FLIC	film licensed investment company
FLP	foreign life assurance policy
FMD	farm management deposit
FTDT	family trust distribution tax
FTD	family trust distribution
FTP	file transfer protocol
GIC	general interest charge
GST	goods and services tax
GVSR	general value shifting regime
ID	identification
IRUs	indefeasible rights to use telecommunications cable systems
ITAA 1936	*Income Tax Assessment Act 1936*
ITAA 1997	*Income Tax Assessment Act 1997*
IT(TP)A 1997	*Income Tax (Transitional Provisions) Act 1997*
IVS	indirect value shifting
LIC	listed investment company
LLP	limited liability partnership
LPR	legal personal representative
MLS	Medicare levy surcharge
PAYG	pay as you go
PDF	pooled development fund
PE	permanent establishment
PSI	personal services income
PST	pooled superannuation trust
R&D	research and development
RBA	running balance account
RBL	reasonable benefit limit
RSA	retirement savings account
SHA	Superannuation Holding Account
SIS	simplified imputation system
STS	simplified tax system
TAA	*Taxation Administration Act 1953*
TFN	tax file number
Trust Loss Act	*Taxation Laws Amendment (Trust Loss and Other Deductions) Act 1998*
UBNT	ultimate beneficiary non-disclosure tax
UCA	uniform capital allowance
UK	United Kingdom
US	United States
US LLC	limited liability company in the USA
www	world wide web

PUBLICATIONS REFERRED TO IN THESE INSTRUCTIONS

Guides and instructions

Advanced guide to capital gains tax concessions for small business (NAT 3359) (available only on our website)

Australian film industry incentives 2007 (NAT 0954–6.2007)

Business industry codes 2007 (NAT 1827–6.2007) (available only on our website)

Capital allowances schedule instructions 2007 (NAT 4089–6.2007)

Debt and equity tests: guide to the debt and equity tests (available only on our website)

Deductions for prepaid expenses 2007 (NAT 4170–6.2007)

Eligible termination payments: a practical guide for superannuation funds (NAT 2699)

Federal Register of Legislative Instruments (available at **www.frli.gov.au**)

Foreign income return form guide (NAT 1840) (available only on our website)

Foreign investment funds guide (NAT 2130) (available only on our website)

General value shifting regime: who it affects (NAT 8933) (available only on our website)

Guide to capital gains tax 2007 (NAT 4151–6.2007)

Guide to capital gains tax concessions for small business (NAT 8384)

Guide to depreciating assets 2007 (NAT 1996-6.2007)

Guide to general value shifting regime (NAT 8366) (available only on our website)

Income tax guide for non-profit organisations (NAT 7967)

Information for primary producers 2007 (NAT 1712–6.2007)

Losses schedule instructions 2007 (NAT 4088–6.2007)

Non-commercial losses: partnerships (available only on our website)

Non-commercial losses: overview – fact sheet (NAT 3379–02.2007)

Rental properties 2007 (NAT 1729–6.2007)

Research and development tax concession schedule instructions 2007 (NAT 6709–6.2007)

Schedule 25A instructions 2007 (NAT 2639–6.2007)

Taxation Statistics (available on our website)

Tax basics for small business (NAT 1908)

TaxPack 2007 (NAT 0976–6.2007)

TaxPack 2007 supplement (NAT 2677–6.2007)

The simplified tax system – a guide for tax agents and small businesses (NAT 6459)

You and your shares 2007 (NAT 2632–6.2007)

Forms and schedules

ABN registration companies, partnerships, trusts and other organisations (NAT 2939)

Capital allowances schedule 2007 (NAT 3424–6.2007)

Capital gains tax (CGT) schedule 2007 (NAT 3423–6.2007)

Family trust distribution tax payment advice (available only on our website)

Family trust election and/or family trust revocation 2007 (NAT 2787–6.2007)

Interposed entity election 2007 (NAT 2788–6.2007)

Losses schedule 2007 (NAT 3425–6.2007)

Non-individual PAYG payment summary schedule 2007 (NAT3647–6.2007)

Partnership tax return 2007 (NAT 0659-6.2007)

Partnerships and trusts rental property schedule 2007 (for ELS lodgments only)

PAYG Payment summary – withholding where ABN not quoted

Payment summary – foreign resident withholding

Personal services income schedule 2007 (NAT 3421–6.2007)

Schedule 25A 2007 (NAT 1125–6.2007)

Tax file number application for companies and other organisations (NAT 3799)

Tax file number application or enquiry for a deceased estate (NAT 3236)

Thin capitalisation schedule 2007 (NAT 6458–6.2007)

Trust tax return 2007 (NAT 0560-6.2007)

Ultimate beneficiary schedule (NAT 2967)

Acts

Development Allowance Authority Act 1992

Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Act 2006

Family Law Act 1975

Film Licensed Investment Company Act 2005

Fringe Benefits Tax Assessment Act 1986

Income Tax Assessment Act 1936 (ITAA 1936)

Income Tax Assessment Act 1997 (ITAA 1997)

Income Tax (Transitional Provisions) Act 1997

Radio Communications Act 1992

Shortfall Interest Charge (Imposition) Act 2005

Taxation Administration Act 1953 (TAA)

Taxation Laws Amendment (Trust Loss and Other Deductions) Act 1998 (Trust Loss Act)

Taxation Laws Amendment Act (No. 3) 1998

Tax Laws Amendment (Improvements to Self Assessment) Act (No. 1) 2005

Tax Laws Amendment (2006 Measures No. 4) Act 2006

Practice statements, Taxation Determinations and Taxation Rulings

GSTR 2003/13 – Goods and services tax: general law partnerships

Law Administration Practice Statement PS LA 2001/12 – Lodgment of Ultimate Beneficiary Statements

Law Administration Practice Statement PS LA 2003/8 – Taxation treatment of expenditure on low cost items for taxpayers carrying on a business

Law Administration Practice Statement PS LA 2004/1 (GA) – Lodgment opportunity for family trust and interposed entity elections

Law Administration Practice Statement PS LA 2006/12 – Thin Capitalisation - Australian equivalents to International Financial Reporting Standards ('AIFRS') – Transitional Provision

Miscellaneous Taxation Ruling MT 2000/1 – The New Tax System: the meaning of entity carrying on an enterprise for the purposes of entitlement to an Australian Business Number ('ABN')

Taxation Determination TD 92/113 – Income tax: foreign income: is a foreign loss quarantined within a partnership?

Taxation Determination TD 94/82 – Income tax: does section 26AH of the Income Tax Assessment Act 1936 apply when investment options are 'switched' under an eligible policy?

Taxation Determination TD 2007/2 - Income tax: should a taxpayer who has incurred a tax loss or made a net capital loss for an income year retain records relevant to the ascertainment of that loss only for the record retention period prescribed under income tax law?

Taxation Ruling IT 2346 – Income tax: bonuses paid on certain life assurance policies – section 26AH – interpretation and operation

Taxation Ruling IT 2486 – Income tax: children's savings accounts

Taxation Ruling IT 2660 – Income tax: definition of royalties

Taxation Ruling TR 92/18 – Income tax: bad debts

Taxation Ruling TR 93/23 – Income tax: valuation of trading stock subject to obsolescence or other special circumstances

Taxation Ruling TR 94/8 – Income tax: whether business is carried on in partnership (including 'husband and wife' partnerships)

Taxation Ruling TR 97/11 – Income tax: am I carrying on a business of primary production?

Taxation Ruling TR 97/23 – Income tax: deductions for repairs

Taxation Ruling TR 97/25 – Income tax: property development: deduction for capital expenditure on construction of income producing capital works, including buildings and structural improvements, and addendum

Taxation Ruling TR 98/7 – Income tax: whether packaging items (ie containers, labels, etc) held by a manufacturer, wholesaler or retailer are trading stock

*Taxation Ruling TR 2002/6 – Income tax: simplified tax system: eligibility – grouping rules (*STS affiliate, control of non-fixed trusts)*

Taxation Ruling TR 2002/11 – Income tax: simplified tax system eligibility – STS average turnover

Taxation Ruling TR 2005/7 – Income tax: the taxation implications of partnership salary agreements

Taxation Ruling TR 2005/9 – Income tax: record keeping – electronic records

Taxation Ruling TR 2005/12 – Income tax: deductibility of interest expenses incurred by trustees on funds borrowed in connection with the payment of distributions to beneficiaries

Taxation Ruling TR 2006/5 – Income tax: effective life of depreciating assets (applicable from 1 July 2006 to 31 December 2006)

Taxation Ruling TR 2006/15 - Income tax: effective life of depreciating assets (applicable from 1 January 2007).

> **NOTE**
> To find out how to get a Tax Office publication, see the inside back cover.

LODGMENT

The postal address for lodgment of the tax return is:

Australian Taxation Office
GPO Box 9845
IN YOUR CAPITAL CITY

The address must appear as shown above.

If you attached a *Family trust election and/or family trust revocation 2007* or an *Interposed entity election 2007* to the partnership or trust tax return, send the tax return and the election/revocation to the address on page 14.

Do not post payments to this address; for payment information see **Payment** in the next column.

If you wish to write to the Tax Office send your correspondence to:

Australian Taxation Office
GPO Box 9990
SYDNEY NSW 2001

PAYMENT

Payment options

You can make payments by several different methods. We prefer to receive payments by electronic means. Payments can be made electronically by **BPAY®**, direct debit or direct credit. However, payments can also be posted to us or made at Australia Post outlets.

Payments cannot be made in person at a Tax Office branch or shopfront. We **do not accept** payment by credit card.

BPAY® allows you to transfer funds electronically from your cheque or savings accounts to the Tax Office using your financial institution's phone or internet banking service. You can make most tax payments by using BPAY.

Quote the Tax Office biller code (**75556**) and use your EFT code as the customer reference number. Your EFT code is the string of numbers found immediately above the barcode on your payment slip. This slip is included in the reminder letter we sent you about the due date for income tax payment and lodgment of your tax return.

Your EFT code is also provided on the 'Payment options – details' screen (for business and tax agent portal users) or immediately below the biller code and titled EFT code, on the details screen of your ECI e-BAS (where access is available).

A receipt number is issued at the time the payment is made. Record it for future reference.

You should check with your financial institution for processing deadlines, to ensure your payments reach us on or before the due date. BPAY payments made out of hours, on a weekend or public holiday will not reach us until the next working day.

If you need assistance locating or identifying the EFT code phone **1800 815 886** or email **payment@ato.gov.au**

For more information about BPAY payments, contact your financial institution.

® Registered to BPAY Pty Ltd ABN 69 079 137 518

Direct credit

Direct credit allows you to transfer funds electronically from your cheque or savings account using online banking facilities. To make a payment you will need the following information about us:

Bank	**Reserve Bank of Australia**
BSB no.	**093 003**
Account no.	**316 385**
Account name	**ATO direct credit account**

To ensure your payment is recorded correctly to your Tax Office account, you must record your EFT code in the direct entry system lodgment reference or in the description field. Your EFT code is the series of numbers found immediately above the bar code on your payment slip.

You should check with your financial institution for processing deadlines, to ensure your payments reach us on or before the due date. Direct credit payments made out of hours, on a weekend or public holiday will not reach us until the next working day.

For more information about direct credit payments visit **www.ato.gov.au** or phone **1800 815 886** or email **payment@ato.gov.au**

Direct debit

Direct debit provides you with the option of having your tax liability electronically debited from a nominated financial institution account (excluding credit card accounts).

To establish a direct debit, you will need to complete and send a Direct debit request (NAT 2284) form to us. The form gives us permission to debit your nominated financial institution account. Forms can be printed and sent by a tax agent using ELS software, or you can order one yourself by phoning 1800 802 308. Tax agent and business portal users can also send requests to us via the portal's messaging facility.

Send your completed request to:

Electronic Funds Transfer Section
Australian Taxation Office
Mail: **PO Box 665**
Moonee Ponds VIC 3039
Fax: **(03) 9275 4240**

Note that the *Direct debit request* must be signed by the account holder(s), and it must be received by us at least five working days before the first debit transaction.

For more information about direct debit payments visit **www.ato.gov.au** or phone **1800 802 308** or email **eft-information@ato.gov.au**

Mail

Post your payment with the payment slip to the address printed on the slip.

If a payment slip is not available, you can post payments to the appropriate address below. Include your full name, address, phone number, type of payment and ABN or TFN.

For NSW, ACT and QLD clients, send payments to:

Australian Taxation Office
Locked Bag 1793
PENRITH NSW 1793

For WA, SA, NT, TAS and VIC clients, send payments to:

Australian Taxation Office
Locked Bag 1936
ALBURY NSW 1936

Pins, staples, paper clips or adhesive tape should not be used.

Cheques and money orders should be for amounts in Australian dollars and payable to the 'Deputy Commissioner of Taxation'. They should be crossed 'not negotiable' and must not be postdated. Do not send cash through the mail.

To avoid incurring penalties for late payment you should allow sufficient time for your payment to reach us on or before the due date.

For more information about mail payments phone **1800 815 886** or email **payment@ato.gov.au**

In person – at a post office

If you have a pre-printed payment slip with a barcode, you can pay in person at any Australia Post outlet. Photocopies of payment slips are not accepted. Payments can be made by cash, EFTPOS or cheque. Australia Post applies a $3,000 maximum limit to cash and EFTPOS payments. Cheques should be for amounts in Australian dollars and payable to the 'Deputy Commissioner of Taxation'. They should be crossed 'not negotiable' and must not be postdated. A receipt will be issued for any payment made in person at an outlet.

EFTPOS is available at most outlets. However, payments can only be made using your savings or cheque account. The amount of the payment is also limited to the daily cash withdrawal amount permitted by your financial institution.

For more information on any payment method phone **1800 815 886** or email **payment@ato.gov.au**

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MORE INFORMATION

INTERNET

- For general tax information and to download publications and rulings, visit **www.ato.gov.au**

PUBLICATIONS

To get a Tax Office publication:

- visit our website at **www.ato.gov.au/publications** for publications, taxation rulings, practice statements and forms
- phone our Publications Distribution Service on **1300 720 092**
- visit one of our shopfronts.

If you are a tax agent

- use **www.iorder.com.au**
- order by fax on **1300 361 462**
- for queries on your order, phone **1300 720 092**

If you know the title of the publication you want and you can quote your ABN, you may order it through our automated speech recognition system operating all day, every day, phone **13 72 26**

TAX OFFICE SHOPFRONTS

- For collection of publications, return forms and schedules

> **NOTE**
> Staff at our shopfronts are not trained to help with business tax returns – phone one of our infolines if you have any business-related enquiries.

AUSTRALIAN CAPITAL TERRITORY

Canberra
Ground Floor Ethos House
28–36 Ainslie Avenue

NEW SOUTH WALES

Albury
567 Smollett Street

Chatswood
Shop 43 Lemon Grove Shopping Centre
441 Victoria Avenue

Hurstville
1st Floor MacMahon Plaza
14–16 Woodville Street

Newcastle
266 King Street

Parramatta
Ground Floor Commonwealth Offices
2–12 Macquarie Street

Sydney
2 Lang Street

Wollongong
93–99 Burelli Street

NORTHERN TERRITORY

Alice Springs
Jock Nelson Centre
16 Hartley Street

Darwin
24 Mitchell Street

QUEENSLAND

Brisbane
280 Adelaide Street

Townsville
Stanley Place
235 Stanley Street

Upper Mt Gravatt
Ground Floor Nexus Building
96 Mt Gravatt-Capalaba Road

SOUTH AUSTRALIA

Adelaide
91 Waymouth Street

TASMANIA

Hobart
200 Collins Street

Launceston
54 Cameron Street

VICTORIA

Cheltenham
4A, 4–10 Jamieson Street

Dandenong
14–16 Mason Street

Geelong
92–100 Brougham Street

Melbourne
Level 1, Casselden Place
2 Lonsdale Street

WESTERN AUSTRALIA

Northbridge
45 Francis Street

INFOLINES

- **Business** **13 28 66**

  General business tax enquiries including GST rulings, pay as you go (PAYG) instalments and withholdings (from interest, dividends and royalties), business deductions, activity statements (including lodgment and payment), accounts and business registration (including Australian business number and tax file number)

- **Tax agents** **13 72 86**

  For inquiries from registered tax agents

- **Super Choice** **13 28 64**

  For information about choice of superannuation fund and the role of the employer

- **Tax reform** **13 24 78**

  For information about new measures for business

- **Account management** **13 11 42**

  For information about outstanding lodgment or payment obligations for activity statements, PAYG withholding, income tax or fringe benefits tax

- **Personal Tax** **13 28 61**

  Individual income tax and general personal tax enquiries

- **Superannuation** **13 10 20**

  For information about the superannuation guarantee, choice of superannuation fund and the Super Co-contribution

- **Fax** **13 28 60**

  To get information about business, tax reform, superannuation, excise duty, fuel schemes, non-profit organisations or personal tax sent to your fax machine, phone **13 28 60** and follow the instructions.

OTHER SERVICES

- **Translating and Interpreting Service** **13 14 50**

  If you do not speak English well and want to talk to a tax officer, phone the Translating and Interpreting Service for help with your call.

- **Hearing or speech impairment**

  If you are deaf or have a hearing or speech impairment, you can phone the Tax Office through the **National Relay Service**:
  - If you are a TTY or modem user, phone **13 36 77** and ask for the number you want. For 1800 free call numbers, phone **1800 555 677** and ask for the number you want.
  - If you are a voice-only (speak and listen) user, phone **1300 555 727** and ask for the number you want. For 1800 free call numbers, phone **1800 555 727** and ask for the number you want.

FEEDBACK

Reader feedback helps us to improve the information we provide. If you have any feedback about this publication, write to:

Editor
Publishing Coordination
Marketing and Education
Micro Enterprises and Individuals
Australian Taxation Office
PO Box 900
CIVIC SQUARE ACT 2608

As this is a publication area only, any tax matters will be passed on to a specialist technical area. You can also phone our Business Infoline on **13 28 66** for help.

Partnership and trust tax returns instructions 2007