

BUSINESS

SEGMENT

COMPANIES, PARTNERSHIPS
AND TRUSTS
AUDIENCE

INSTRUCTIONS

FORMAT

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PRODUCT ID



Australian Government

Australian Taxation Office

Family trust election and/or family trust revocation 2005

Election form and explanatory notes for 1 July 2004 – 30 June 2005



For more information visit
www.ato.gov.au

EXPLANATORY NOTES FOR THE FAMILY TRUST ELECTION AND/OR FAMILY TRUST REVOCATION 2005

WHEN TO USE THE FAMILY TRUST ELECTION AND/OR FAMILY TRUST REVOCATION 2005

The trustee(s) must use the *Family trust election and/or family trust revocation 2005* for:

- making a family trust election in accordance with section 272-80 of Schedule 2F to the *Income Tax Assessment Act 1936* (ITAA 1936) specifying the 2004–05 income year, or
- revoking a family trust election from a time in the 2004–05 income year in accordance with subsections 272-80(6)–(8) of Schedule 2F to the ITAA 1936 (fixed trusts only).

CONDITIONS FOR MAKING AND/OR REVOKING A FAMILY TRUST ELECTION

To make a family trust election specifying the 2004–05 income year, the trust must pass the family control test in section 272-87 of Schedule 2F to the ITAA 1936 at the end of that income year (see subsection 272-80(4) of Schedule 2F to the ITAA 1936). However, the election will only be in force from the earliest time (the **election commencement time**) in the 2004–05 income year from which the trust passes the family control test continuously until the end of that income year (see subsection 272-80(10) of Schedule 2F to the ITAA 1936).

! NOTE

A family trust election is irrevocable unless the family trust is a fixed trust at the beginning of the specified income year and the trust satisfies all the other conditions set out in subsections 272-80(6)–(8) of Schedule 2F to the ITAA 1936.

A trust can only have one family trust election in force (see subsection 272-80(11) of Schedule 2F to the ITAA 1936). However, the trustee(s) can make a family trust election and one or more interposed entity elections in accordance with section 272-85 of Schedule 2F to the ITAA 1936, provided all the elections are made in relation to the family group of the same specified individual (see the explanatory notes accompanying the *Interposed entity election 2005*).

HOW TO COMPLETE THE FAMILY TRUST ELECTION AND/OR FAMILY TRUST REVOCATION 2005

Complete Section **A** of the *Family trust election and/or family trust revocation 2005* if the trustee(s) is/are making a family trust election specifying the 2004–05 income year. The trustee(s) must provide **all** the information required in Section **A** in order for a family trust election specifying the 2004–05 income year to be made in accordance with section 272-80 of Schedule 2F to the ITAA 1936.

Complete Section **B** if the trustee(s) is/are revoking a family trust election from a specified time in the 2004–05 income year. The trustee(s) must provide **all** the information required in order for a family trust election to be revoked in accordance with subsections 272-80(6)–(8) of Schedule 2F to the ITAA 1936.

Although it is not an offence not to quote a tax file number (TFN), any TFN required on this form is information which the Commissioner requires within the meaning of subsection 272-80(3) of Schedule 2F to the ITAA 1936. If a TFN of a person or entity is required on the *Family trust election and/or family trust revocation 2005* and the relevant person or entity does not have a TFN, print **X** in the box provided.

Where the *Family trust election and/or family trust revocation 2005* form is being used to make a family trust election, every trustee of the trust must sign and date the form at the time the family trust election is made. If any trustee is a company, the company public officer must sign for that corporate trustee.

Where the *Family trust election and/or family trust revocation 2005* form is being used to revoke a family trust election, every trustee of the trust at the time the 2004–05 tax return is lodged or the *Family trust election and/or family trust revocation 2005* is required to be given to the Commissioner must sign and date the *Family trust election and/or family trust revocation 2005*. The

Family trust election and/or family trust revocation 2005 must be signed prior to the time the 2004–05 tax return for the trust is lodged or the *Family trust election and/or family trust revocation 2005* is required to be given to the Commissioner. If any trustee is a company, the company public officer must sign for that corporate trustee.

WHEN TO MAKE A FAMILY TRUST ELECTION USING THE FAMILY TRUST ELECTION AND/OR FAMILY TRUST REVOCATION 2005

Recently, there have been changes to the rules relating to the making of family trust elections. Generally, the changes allow trustee(s) to make family trust elections at any time in relation to earlier years provided that from the beginning of the specified income year until 30 June of the income year immediately preceding that in which the election is made:

- the trust passes the family control test (see section 272-87 of Schedule 2F to the ITAA 1936), and
- any conferral of present entitlement to, or any actual distributions of, income or capital during that period have been made to the individual specified in the election or members of that individual's family group (see subsection 272-80(4A) of Schedule 2F to the ITAA 1936).

As this change applies to elections specifying the 2004–05 year or a later income year, trustee(s) using the *Family trust election and/or family trust revocation 2005* to make a family trust election can only specify the 2004–05 income year.

WHEN TO REVOKE A FAMILY TRUST ELECTION USING THE FAMILY TRUST ELECTION AND/OR FAMILY TRUST REVOCATION 2005

Where the 2005 tax return is required

If the trustee(s) is/are using the *Family trust election and/or family trust revocation 2005* to revoke a family trust election and the trustee(s) is/are required to lodge a 2005 tax return, they must include the *Family trust election and/or family trust revocation 2005* as part of that tax return for the trust. Send the completed tax return including the *Family trust election and/or family trust revocation 2005* to:

Australian Taxation Office
PO Box 9990
Penrith NSW 2740

If the trustee(s) need(s) more time to lodge the 2005 tax return with a *Family trust election and/or family trust revocation 2005*, they should write to the Commissioner requesting a deferral of time within which to lodge the return under section 388-55 of the *Taxation Administration Act 1953*, and stating the reason(s) for the delay and the proposed date for lodging the return for the trust including the *Family trust election and/or family trust revocation 2005*.

Where the 2005 tax return is not required

If the trustee(s) is/are using the *Family trust election and/or family trust revocation 2005* to revoke a family trust election and the trustee(s) is/are not required to lodge a 2005 tax return, they must give the *Family trust election and/or family trust revocation 2005* to the Commissioner no later than two months after the end of the 2004–05 income year for the trust. Send the completed *Family trust election and/or family trust revocation 2005* to:

Australian Taxation Office
PO Box 9990
Penrith NSW 2740

If the trustee(s) is/are not required to lodge a 2005 tax return and they need more time to give the Commissioner the *Family trust election and/or family trust revocation 2005*, they should write to the Commissioner before the due date requesting a deferral of time under subparagraph 272-80(7)(b)(ii) of Schedule 2F to the ITAA 1936, and stating the reason(s) for the delay and the proposed date for giving the Commissioner the *Family trust election and/or family trust revocation 2005*.



Family trust election and/or family trust revocation

2005

Please print neatly in BLOCK LETTERS with a black or blue ballpoint pen only.

Tax file number (TFN)
of the trust

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You must provide all the information required in Section A to ensure a family trust election specifying the 2004–05 income year is made in accordance with section 272–80 of Schedule 2F to the *Income Tax Assessment Act 1936* (ITAA 1936).
You must provide all the information required in Section B if a family trust election is to be revoked from a date in the 2004–05 income year in accordance with subsections 272–80(6)–(8) of Schedule 2F to ITAA 1936 (fixed trusts only).
If there is not enough space on the form to properly answer any item, or if an item requires further information to be provided, attach a separate sheet of paper with the additional information.

Section A Family trust election specifying the 2004–05 income year

1 Full name and current postal address (including country – if outside Australia) of trust for which the family trust election is made.

Full name of the trust

Current postal address of the trust

Suburb or town	State	Postcode
Country – if not Australia		

2 If the name and/or the postal address for the trust identified in item 1 of Section A has changed since its last tax return (if any) was lodged, print it exactly as shown on the last notice of assessment or the last tax return lodged.

Full name of the trust as shown on
last notice of assessment or last
tax return lodged

Postal address of the trust
as shown on last notice of
assessment or last tax return
lodged

Suburb or town	State	Postcode
Country – if not Australia		

3 Was the central management and control of the trust outside Australia at any time during the period from the election commencement time (see items 5 and 6 of Section A) until the time the election is made (relevant period)?

☐ Print **Y** for yes
or **N** for no.

If you printed **Y**, specify the time(s) at which central management and control was outside Australia.

Full period ☐

Print **F** in the box if the central management and control of the trust was outside Australia at all times during the relevant period **OR** specify the time(s) during the relevant period at which central management and control of the trust was outside Australia.

If more than two time periods are to be specified, attach a separate sheet of paper with details of the additional time periods.

from	<table border="1"><tr><td>Day</td><td>Month</td><td>Year</td></tr><tr><td></td><td></td><td></td></tr></table>	Day	Month	Year				to	<table border="1"><tr><td>Day</td><td>Month</td><td>Year</td></tr><tr><td></td><td></td><td></td></tr></table>	Day	Month	Year			
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Day	Month	Year													
Day	Month	Year													

4 Full name, TFN, current postal address and residency details of every trustee of the trust from the election commencement time until the time the election is made (relevant period).
Where any trustee is a company, the Australian company number (ACN) or Australian registered body number (ARBN) of each such trustee is also required.

If there were more than two trustees of the trust during the relevant period, attach a separate sheet of paper with all the information required for each additional trustee.

TFN of trustee

OR

Print **X** in the box if the trustee does not have a TFN. ☐

TFN of trustee

OR

Print **X** in the box if the trustee does not have a TFN. ☐

If the trustee is an individual

Title – for example, Mr, Mrs, Ms, Miss

Surname or family name

Given names

If the trustee is an individual

Title – for example, Mr, Mrs, Ms, Miss

Surname or family name

Given names

If the trustee is a company

Name

ACN/ARBN* *Cross out whichever is not applicable.

If the trustee is a company

Name

ACN/ARBN* *Cross out whichever is not applicable.

Current postal address of the trustee

Suburb or town

State Postcode

Country – if not Australia

Current postal address of the trustee

Suburb or town

State Postcode

Country – if not Australia

At any time during the relevant period was the trustee a non-resident for tax purposes? ☐ Print **Y** for yes or **N** for no.

If you printed **Y**, specify the time(s) at which the trustee was a non-resident for tax purposes.

Print **F** in the box if the trustee was a non-resident for tax purposes at all times during the relevant period **OR** Full period ☐

Specify the time(s) during the relevant period at which the trustee was a non-resident for tax purposes.

Day Month Year to Day Month Year

If more than one time period is to be specified, attach a separate sheet of paper with details of the additional time periods.

At any time during the relevant period was the trustee a non-resident for tax purposes? ☐ Print **Y** for yes or **N** for no.

If you printed **Y**, specify the time(s) at which the trustee was a non-resident for tax purposes.

Print **F** in the box if the trustee was a non-resident for tax purposes at all times during the relevant period **OR** Full period ☐

Specify the time(s) during the relevant period at which the trustee was a non-resident for tax purposes.

Day Month Year to Day Month Year

If more than one time period is to be specified, attach a separate sheet of paper with details of the additional time periods.

5 If the 2004–05 income year of the trust specified for the purposes of this family trust election does not end on 30 June 2005, state the substituted accounting period for that income year.

Income year specified **2005** from Day Month Year to Day Month Year

6 The election commencement time for the family trust election.

Day Month Year

Note: Only complete this item if the family control test in section 272-87 of Schedule 2F to ITAA 1936 has **NOT** been satisfied at all times during the 2004–05 income year. In these circumstances, the election commencement time will be the earliest time from which the family control test was passed continuously until the end of the 2004–05 income year. In all other circumstances the election commencement time is the first day of the income year specified in item 5 of Section A.

Note: Only one individual can be specified.

TFN of the specified individual	<div style="border: 1px solid black; width: 200px; height: 25px; position: relative;"> <div style="position: absolute; top: 5px; left: 5px;"> </div> <div style="position: absolute; top: 5px; left: 15px;"> </div> <div style="position: absolute; top: 5px; left: 25px;"> </div> <div style="position: absolute; top: 5px; left: 35px;"> </div> <div style="position: absolute; top: 5px; left: 45px;"> </div> <div style="position: absolute; top: 5px; left: 55px;"> </div> <div style="position: absolute; top: 5px; left: 65px;"> </div> <div style="position: absolute; top: 5px; left: 75px;"> </div> <div style="position: absolute; top: 5px; left: 85px;"> </div> </div>	OR	<div style="border: 1px solid black; width: 25px; height: 25px; display: flex; align-items: center; justify-content: center;"> <input type="checkbox"/> </div>	Print X in the box if the specified individual does not have a TFN.
Full name of the specified individual	<div style="border: 1px solid black; width: 400px; height: 30px;"></div>		Date of birth of the specified individual	<div style="border: 1px solid black; width: 150px; height: 30px; position: relative;"> <div style="position: absolute; top: 5px; left: 5px;">Day</div> <div style="position: absolute; top: 5px; left: 85px;">Month</div> <div style="position: absolute; top: 5px; left: 935px;">Year</div> <div style="position: absolute; top: 5px; left: 80px;"> </div> <div style="position: absolute; top: 5px; left: 120px;"> </div> <div style="position: absolute; top: 5px; left: 160px;"> </div> <div style="position: absolute; top: 5px; left: 200px;"> </div> <div style="position: absolute; top: 5px; left: 240px;"> </div> <div style="position: absolute; top: 5px; left: 280px;"> </div> </div>
Surname or family name	<div style="border: 1px solid black; width: 400px; height: 40px;"></div>	Given names	<div style="border: 1px solid black; width: 400px; height: 40px;"></div>	
Current address of principal place of residence of the specified individual	<div style="border: 1px solid black; width: 700px; height: 100px; position: relative;"> <div style="position: absolute; top: 5px; left: 5px;">Suburb or town</div> <div style="position: absolute; top: 5px; left: 600px;">State</div> <div style="position: absolute; top: 5px; left: 720px;">Postcode</div> <div style="position: absolute; top: 5px; left: 10px;">Country – if not Australia</div> </div>			

Note: Only complete Section B if a family trust election is being revoked in accordance with subsections 272-80(6)–(8).

Full name of the trust				
Current postal address of the trust				
Insert the TFN in the box at the top of page 1.	Suburb or town		State	Postcode
	Country – if not Australia			

Day Month Year

Income year

Income year TFN of the specified individual **OR** Print **X** in the box if the **specified individual** does not have a TFN.

TFN of the *company/ partnership/trust		OR	Print X in the box if the *company/partnership/trust does not have a TFN.	
Full name of the *company/ partnership/trust including ACN				
Current postal address of the *company/ partnership/trust				
Cross out whichever is not applicable.	* Cross out whichever is not applicable			
	Suburb or town	State	Postcode	
	Country – if not Australia			

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Declaration:

I/We* declare that all the information required has been provided in this form and any attachments to this form, and that the information provided is true and correct in every detail, and

- *i that the trustee(s)* is/are* making a family trust election specifying the 2004–05 income year, the details of which are set out above, for the purposes of section 272-80 of Schedule 2F to ITAA 1936 and that the trustee(s)* is/are* able to make the election in accordance with that section, or
- *ii that the trustee(s)* is/are* revoking a family trust election from a time in the 2004–05 income year, the details of which are set out above, for the purposes of subsections 272-80(6)–(8) of Schedule 2F to ITAA 1936 and that the trustee(s)* is/are* able to revoke the election in accordance with those subsections.

* Cross out whichever is not applicable.

Full name of the trustee(s) at the time the family trust election is made or, where this form is being used to revoke a family trust election, the time the 2004-05 tax return is lodged with this form or this form is required to be given to the Commissioner.

Note: If Section A is required to be completed, the name of the trustee(s) must be written exactly as it appears in item 4 of Section A.

If the trustee is an individual

Title – for example, Mr, Mrs, Ms, Miss

Surname or family name

Given names

If the trustee is an individual

Title – for example, Mr, Mrs, Ms, Miss

Surname or family name

Given names

If the trustee is a company

Name

If the trustee is a company

Name

Signature of the trustee or, if the trustee is a company, the signature of the public officer of the corporate trustee

Signature of the trustee or, if the trustee is a company, the signature of the public officer of the corporate trustee

Date declaration made

Day Month Year

Date declaration made

Day Month Year

If there are more than two trustees of the trust at the time the family trust election is made or, where this form is being used to revoke a family trust election, the time the 2004-05 tax return is lodged with this form or this form is required to be given to the Commissioner, attach a separate sheet of paper with the above details and signature for each additional trustee.

For more information, see Explanatory notes for the family trust election and/or family trust revocation 2005 on the inside front cover.

Hours taken to prepare and complete this form (See notes below)

The Tax Office is committed to reducing the costs of complying with the taxpayer’s taxation obligations. By completing this item you will help us to monitor these costs as closely as possible. When completing this item the trust should consider the time, rounded up to the nearest hour, which the trust (including the trustees) spent:

- reading the instructions
- collecting the necessary information to complete this form
- making any necessary calculations, and/or
- actually completing this form.

- Notes:
- The answer should reflect the time both your business and tax agent spent preparing and completing this form. This includes the time spent by any other person whose assistance was obtained in doing this, such as an employee of the business.
 - If this form is lodged with the 2004–05 tax return, the answer should be included in the time box provided in the tax return.