



macmillan cowan & co

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MACBITES – TRUST DISTRIBUTION MINUTES

A significant change in the approach of the Australian Taxation Office (ATO) towards family trusts and the manner in which their trustees deal with each year's income needs to be understood and noted by all of our clients with trusts in their structure.

The ATO have recently alerted to trustees that if they make beneficiaries entitled to trust income by way of resolution (i.e. they distribute the trust's annual income to taxpayers) they must do so by the end of each income year (June 30) for that resolution to be effective for determining who is to be assessed on the trust's income.

The ATO position is that if a trustee was to make a resolution after 30 June it is possible the resolution will be deemed ineffective and in that case the **trustee would be assessed on all of the income at the top marginal rate under sec 99A of the Tax Act (i.e. 46.5%)**.

The trustee may be requested to provide the ATO with a copy of their 2012 signed distribution resolution at any time after 30th June.

Over the next few weeks we will need to discuss this matter with all of our clients who use trusts with a view to having the resolution completed before 30th June. You should ensure that your records are up to date as this process may involve an assessment of the expected net profit of the trust, and also a review of the level of drawings throughout the year.

It should be noted that it is the responsibility of the trustee to comply with this requirement.

26th April 2012

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