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Chartered Accountants | Business Advisory | Taxation | Superannuation | Financial Accounting | Financial Planning & Advisory | Estate Planning

End of Year 2025 Reminders & Actions

In brief

Date	Changes and actions
30 June 2024	• $20,000 small business energy boost ended. • Skills & training boost ended.
1 July 2024	• Personal income tax rates and threshold changed. • Super guarantee rate increased to 11.5%. • Small business instant asset write off for depreciating assets costing less than $20,000 extended until 30 June 2025.
21 May 2025	• FBT return and payments due if applicable unless lodging electronically through a tax agent.
25 June 2025	• FBT return and payments due if lodging electronically through a tax agent.
Pre-30 June 2025	• Review shareholder loan accounts and make minimum loan repayments (may need to declare dividends). • Pay superannuation to deduct contributions in the current financial year • Complete a stocktake where required (see *Do you need to do a stocktake?*). • Write-off bad debts and scrap any obsolete stock or plant and equipment.

	• Ensure any inter-entity management fees have been raised. • For trusts – ensure trustee resolutions are in place to be able to distribute trust income for the 2024-2025 financial years to beneficiaries.
1 July 2025	• Super guarantee rate increases to 12%. • GIC/SIC incurred no longer deductible.
14 July 2025	• Single touch payroll finalisation declarations need to be made (extensions can apply for closely held employees).
28 July 2025	• Quarterly super guarantee payment due (1 April – 30 June). • For trusts – TFN Report due for any Tax File Numbers received from beneficiaries for the 2025 year (relevant for new beneficiaries)
28 August 2025	• Taxable payments annual reports for payments to contractors due.

**Subject to legislation. Not yet law.*

What's new

Superannuation Guarantee increases to 12%

The Superannuation Guarantee (SG) rate will continue with a final increase to increase to 12% on 1 July 2025.

If your business is an employer, what this will mean depends on your employment agreements. If the employment agreement states the employee is paid on a 'total remuneration' basis (base plus SG and any other allowances), then their take home pay might be reduced by 0.5%. That is, a greater percentage of their total remuneration will be directed to their superannuation fund. For employees paid a rate plus superannuation, then their take home pay will remain the same and the 0.5% increase will be added to their SG payments.

ATO interest charges

From 1 July 2025, General Interest Charges (GIC) and Shortfall Interest Charges (SIC) will no longer be tax-deductible. This change will impact how interest on unpaid or underpaid tax liabilities is treated, and it is important for all taxpayers to carefully consider how this may affect their tax position.

While GIC and SIC may accrue over time, for tax purposes, they are often treated as being incurred from a specific day, usually the day the relevant assessment is issued. This means the timing of assessments can be critical. For example, if a notice of assessment is issued before 1 July 2025, at least some of the associated GIC or SIC might still be deductible. On the other hand, if the assessment is issued on or after 1

July 2025, the entire amount could be non-deductible even if some of the interest accrued in an earlier period.

Until now, all taxpayers have been entitled to claim a deduction for GIC and SIC under a specific provision in the tax legislation. This provision will be repealed and a new rule inserted to ensure that these charges are non-deductible from 1 July 2025. The ATO will still have discretion to remit GIC and SIC, but the treatment of any remitted interest will differ depending on when it was incurred:

- If deductible GIC or SIC (i.e. incurred before 1 July 2025) is later remitted, it will be included in your assessable income.
- If non-deductible GIC or SIC (i.e. incurred from 1 July 2025 onwards) is remitted, it will not be assessable.

In situations where GIC is incurred daily such as on unpaid tax debts it is expected that only the interest accrued and incurred up to 30 June 2025 will remain deductible. GIC incurred from 1 July 2025 will be non-deductible, even if it continues to relate to older tax debts.

We encourage you to review your current tax position and discuss any exposure to GIC or SIC with us ahead of 30 June 2025.

Instant write-off for depreciating assets

The instant asset write-off threshold is now $20,000 for the 2024-25 year.

Businesses that have aggregated annual turnover of less than $10 million that use the simplified depreciation rules may be able to use the instant asset write-off rules to immediately deduct the business portion of the cost of eligible assets. Key things to remember include:

- The full cost of the asset must be less than $20,000 after taking off GST credits that can be claimed.
- To claim the deduction in the 2025 tax return the asset normally needs to be first used or installed ready for use for a taxable purpose between 1 July 2024 and 30 June 2025.
- New and second-hand assets can qualify, subject to some specific exclusions and limits.
- If you claimed an immediate deduction for an asset’s cost under the instant asset write-off rules in an earlier income year, you can also immediately deduct the first improvement cost for that asset if it is incurred between 1 July 2024 and 30 June 2025 and is less than $20,000.
- The $20,000 limit applies on a per-asset basis, so you can instantly write off multiple assets as long as the cost of each asset is less than the limit.

Financial 'housekeeping'

Having trouble with tax debt?

If you are having trouble paying your tax liability, please let us know as soon as possible so we can negotiate a deferral or payment plan with the ATO on your behalf.

Reporting payments to contractors

The taxable payments reporting system requires businesses in certain industries to report payments they make to contractors (individual and total for the year) to the ATO. 'Payment' means any form of consideration including non-cash benefits and constructive payments. Taxable payments reporting is required for:

- Building and construction services
- Cleaning services
- Courier and road freight services
- Information technology (IT) services
- Security, investigation or surveillance services
- Mixed services (providing one or more of the services listed above)

The annual report is due by 28 August 2025.

Director ID regime

The director ID regime prevents the use of false and fraudulent director identities.

While there was a transition phase to allow time for existing directors to obtain a director ID, this has now elapsed and all directors should have a director ID in place. Unregistered directors face criminal penalties of up to $16,500 and civil penalties of up to $ 1,375,000.

All incoming directors are required to obtain a director ID **prior** to their appointment as a director.

Before you roll-over your software…

Before rolling over your accounting software for the new financial year, make sure you:

- Prepare your financial year-end accounts. This way, any problems can be rectified and you have a 'clean slate' for the 2025-26 year. Once rolled over, the software cannot be amended.

- Do not finalise end of financial year payroll until you are sure that your STP finalisation declaration is correct. Always perform a payroll back-up before you roll over the year.

Employee reporting

Single touch payroll

For payments to employees through single touch payroll (STP), a finalisation declaration generally needs to be made by 14 July 2025. However, there are some exceptions to this.

If your business has 20 or more employees and some of them are closely held employees (relatives for example), then the finalisation declaration for the closely held employees needs to be made by 30 September.

If your business has 19 or fewer employees and they are only closely held employees, the finalisation declaration should be made by the due date for lodgement of the tax return of the relevant employee.

Employees will be able to access their Income Statement through their myGov account.

Closely held payees
Payments to closely held payees can be reported through STP in one of three ways:

- Reporting actual payments in real time - reporting each payment to a closely held payee on or before each pay event (essentially using STP 'as normal').
- Reporting actual payments quarterly - lodging a quarterly STP statement detailing these payments for the quarter, with the statement due when the activity statement is due.
- Reporting a reasonable estimate quarterly - lodging a quarterly STP statement estimating reasonable year-to-date amounts paid to employees, with the statement due when the activity statement is due.

Small employers that have arm's length employees must report STP information on or before each payday regardless of the method that is chosen for reporting payments to closely held payees.

If your business has closely held employees, it will be important to plan throughout the year to prevent problems occurring at year end.

Reportable Fringe Benefits

Where you have provided fringe benefits to your employees in excess of $2,000, you need to report the FBT grossed-up amount. This is referred to as a `Reportable Fringe Benefit Amount' (RFBA).

Do you need to do a stocktake?

Businesses that buy and sell stock generally need to do a stocktake at the end of each financial year as the increase or decrease in the value of stock is included when calculating the taxable income of your business.

If your business has an aggregated turnover below $50 million, you can use the simplified trading stock rules. Under these rules, you can choose not to conduct a stocktake for tax purposes if the difference in value between the opening value of your trading stock and a reasonable estimate of the closing value of trading stock at the end of the income year is less than $5,000. You will need to record how you determined the value of trading stock on hand.

If you do need to complete a stocktake, you can choose one of three methods to value trading stock:

- **Cost price** – all costs connected with the stock including freight, customs duty, and if manufacturing, labour and materials, plus a portion of fixed and variable factory overheads, etc.
- **Market selling value** - the current value of the stock you sell in the normal course of business (but not at a reduced value when you are forced to sell it).
- **Replacement value** - the price of a substantially similar replacement item in a normal market on the last day of the income year.

A different basis can be chosen for each class of stock or for individual items within a particular class of stock. This provides an opportunity to minimise the trading stock adjustment at year-end. There is no need to use the same method every year; you can choose the most tax effective option each year. The most obvious example is where the stock can be valued below its purchase price because of market conditions or damage that has occurred to the stock. This should give rise to a deduction even though the loss has not yet been incurred.

Motor Vehicles

Record Odometer readings at 30 June 2025 for all vehicles. An appropriate declaration is available on our website.

Reduce your risks & minimise your tax

Top tax tips

1. Write-off bad debts

To be a bad debt, you need to have brought the income to account as assessable income and given up all attempts to recover the debt. It needs to be written off your debtors' ledger by 30 June. If you don't maintain a debtors' ledger, a director's minute confirming the write-off is a good idea.

2. Review your asset register and scrap any obsolete plant

Check to see if obsolete plant and equipment is sitting on your depreciation schedule. Rather than depreciating a small amount each year, if the plant has become obsolete, scrap it and write it off before 30 June. Small business entities can choose to pool their assets and claim one deduction for each pool. This means you only have to do one calculation for the pool rather than for each asset.

3. Bring forward repairs, asset purchases less than $20,000, consumables, trade gifts or donations

To claim a deduction for the 2024-25 financial year, consider paying for any required repairs, replenishing consumable supplies, trade gifts or donations before 30 June.

4. Pay June quarter employee super contributions now

Pay June quarter super contributions this financial year if you want to claim a tax deduction in the current year. The next quarterly superannuation guarantee payment is due on 28 July 2025. However, some employers choose to make the payment early to bring forward the tax deduction instead of waiting another 12 months.

Don't forget yourself. Superannuation can be a great way to get tax relief and still build your personal wealth. Your personal or company sponsored contributions need to be received by the fund before 30 June to be deductible.

5. Realise any capital losses and reduce gains

Neutralise the tax effect of any capital gains you have made during the year by realising any capital losses – that is, sell the asset and lock in the capital loss. These need to be genuine transactions to be effective for tax purposes.

6. Prepay deductible Interest & Expenditure

Prepay interest or other deductible expenditure for a period of 12 months or less.

7. Defer Income

If possible defer income until after June 30 – send out invoices later but remember the flow on cash-flow effect.

8. Raise management fees between entities by June 30

Where management fees are charged between related entities, make sure that the charges have been raised by 30 June. Where management charges are made, make sure they are commercially reasonable and documentation is in place to support the transactions. If any transactions are undertaken with international related parties, then the transfer pricing rules need to be considered and the ATO's documentation expectations will be much greater. This is an area under increased scrutiny.

9. Declare dividends to pay any outstanding shareholder loan accounts

If your company has advanced funds to a shareholder or related party, paid expenses or allowed a shareholder or other related party to use assets owned by the company, then this can be treated as a taxable dividend. The regulators expect that top-up tax (if any applies) should be paid by shareholders at their marginal tax rate once they have access to these profits. When it comes to loans, a complying loan agreement can normally be used to prevent the full loan balance from being treated as a taxable dividend.

If you have any shareholder loan accounts from prior years that were placed under complying loan agreements, the minimum loan repayments need to be made by 30 June 2025. It may be necessary for the company to declare dividends before 30 June 2025 to make these loan repayments.

The tax rules in this area can be extraordinarily complex and can lead to some very harsh tax outcomes. It is important to talk to us as soon as possible if you think your company has made payments or advanced funds to shareholders or related parties.

10. Directors' fees and employee bonuses

Any expected directors' fees and employee bonuses may be deductible for the 2024-25 financial year if you have 'definitely committed' to the payment of a quantified amount by 30 June 2025, even if the fee or bonus is paid to the employee or director after 30 June 2025.

You would generally be definitely committed to the payment by year-end if the directors pass a properly authorised resolution to make the payment by year-end. The employer should also notify the employee of their entitlement to the payment or bonus before year-end.

The accrued directors' fees and bonuses need to be paid within a reasonable time period after year-end.

What we need from you

This is a general list of what to have ready when we next meet with you:

- Accounts data file access (MYOB, Quickbooks, Xero, etc.,)
- Debtors & creditors reconciliation
- Stocktake if applicable (or if your business is a Small Business Entity, use the simplified trading stock rules mentioned above)
- 30 June bank statements on all relevant loan documents, bank accounts and credit cards
- Documents on new assets bought or sold, including the date you entered the contract and the date the asset was first used or installed ready for use
- Documents supporting the sale or improvement of assets that are energy efficient
- Education and training expenses
- Details of any grants or disaster loans received
- Details of any insurance payouts for your business or business premises
- Payroll reconciliation
- Superannuation reconciliation
- Cash book (if applicable)
- Details of any transactions involving cryptocurrency (e.g., Bitcoin, NFTs)
- 30 June statements on any investment or operating accounts
- Motor Vehicle Odometer Reading Declarations

And, if we are preparing your individual income tax return:

- Work from home diary

- Electric car details
- Income Statement
- Tax statements of managed investment funds
- Interest income from banks and building societies
- Dividend statements for dividends received
- For share sales or purchases, the purchase and sale contract notes
- For real estate sales or purchases, the solicitor's correspondence for the purchase and sale
- Rental property statements from real estate agent and details of other expenditure incurred
- Work related expenses
- Self-education expenses
- Travel expenses
- Donations to charities
- Health insurance and rebate entitlement
- Family Tax Benefits received
- Commonwealth assistance notices
- IAS statements or details of PAYG Instalments paid
- Details of any transactions involving cryptocurrency (e.g., Bitcoin, NFTs) – we recommend you obtain a report from Koinly or Crypto Tax Calculator if you have made a significant number of trades.
- Details of any income derived from participating in the sharing economy (e.g., Uber driving, rent from AirBNB, jobs completed through Airtasker etc.,)

Areas of ATO scrutiny

Contractor payments

The ATO is paying attention to contractors who may not be reporting all of their income, especially in industries included in the Taxable Payments Reporting System (TPRS). These industries include building and construction, courier, cleaning, information technology (IT), road freight, and security, investigation or surveillance services.

Businesses operating in these sectors are required to lodge a Taxable Payments Annual Report (TPAR), which outlines payments made to contractors. The ATO uses this information to match against income declared in contractors' tax returns.

In some cases, contractors might unintentionally understate their income. This can occur when pre-filled data from the ATO is not used. For example, a contractor such as a carpenter might miss including some income from clients who reported payments through TPAR. In such situations, the ATO may issue an amended assessment and penalties may apply depending on the circumstances.

When a mismatch is identified, the ATO usually contacts the contractor or their tax professional to encourage them to review and, if needed, amend their tax return. If this is not addressed, the matter might progress to a compliance review or audit, and interest and penalties could be applied based on the nature of the discrepancy.

GST reporting

Small businesses that have a history of non-compliance such as missing payments, late or non-lodgement of BASs and reporting incorrect GST are currently a key focus of the ATO.

Starting from 1 April 2025, the ATO will notify certain small businesses with a history of non-compliance such as late payments, missed lodgements, or incorrect reporting that they are required to shift to monthly GST reporting. This measure is intended to support these businesses in meeting their tax obligations and establishing regular reporting habits.

The monthly reporting cycle will remain in place for minimum of 12 months. A review process is also available for small businesses that do not believe they have a history of poor compliance and should be able to remain on their current GST reporting cycle.

The ATO suggests that small businesses should consider voluntarily moving their GST reporting and payment cycle to monthly basis. Many businesses reporting monthly have found it easier to manage their cash flow and meet their obligations with smaller, more manageable payments that align better with small business reconciliation processes. Please let us know if you would like to explore this option.

Succession planning tax risks

The ATO has increased its focus on succession planning, especially for privately owned and wealthy groups. The ATO is focusing on private groups that incorrectly recognise the tax consequences of transactions or structures to minimise or avoid tax when undertaking succession planning.

Situations that attract the ATO's attention include:

- Entities failing to recognise that a CGT event happened when they have restructured or transferred an asset
- Entities incorrectly applying tax concessions or rollover relief
- Entities adopting complex structures or entering into an arrangement to access tax concessions or rollovers that are not otherwise available
- Entities failing to review the pre-CGT status of assets after an event that affects the beneficial ownership of such assets
- Transferring wealth through loans, payments or forgiveness of debt and failing to consider the application of Division 7A
- The use of trusts where there are amendments to the trust deed, such as changes to the trustee or appointor, adding or removing beneficiaries and amending the vesting date, and trusts have made family trust elections or interposed entity elections, and are distributing outside the family group
- Entities inappropriately using self-managed super funds to access a lower rate of tax.

Please let us know if you would like assistance with putting a succession plan in place or you would like us to review an existing succession plan. So many complex issues can arise in this area and prior planning can be crucial to determine potential tax risks before they are triggered.

Profits of professional services firms

If your company operates a professional services firm, it is important to understand the implications of the ATO's finalised guidance on profits of professional services firms.

The ATO takes a strong stance on how the profits of professional services firms are structured and how profits flow through to the professionals involved. The ATO is specifically concerned with structures designed to divert income so the professional ends up receiving very little income directly for their work, reducing their taxable income.
If these structures appear to be in place to divert income to create a tax benefit for the professional, Part IVA may apply. Part IVA is an integrity rule that allows the Commissioner to remove any tax benefit received by a taxpayer where they entered into an arrangement in a contrived manner in order to obtain a tax benefit. Part IVA may apply to schemes designed to ensure that the professional is not appropriately rewarded for the services they provide to the business, or that they receive a reward which is substantially less than the value of those services.

The ATO guidance sets out a series of tests to identify a practitioner's risk level, looking at the structure of the business and how profits are distributed, and whether the structure has any high-risk features.

With the guidance finalised some time ago, the ATO has now been reaching out to taxpayers to review how they line up against its guidelines. For professional services firms, it is important to understand the risk level for each principal practitioner separately.

If you are concerned about your position, please contact us.

Companies: ATO focus of shareholder loans

Division 7A is an area of the tax law aimed at situations where a private company provides benefits to shareholders or their associates in the form of a loan, payment or by forgiving a debt. It can also apply where a trust has allocated income to a private company but has not actually paid it, and the trust has provided a payment or benefit to the company's shareholder or their associate.

Division 7A was introduced to prevent shareholders accessing company profits or assets without paying the appropriate tax. If triggered, the recipient of the benefit is taken to have received a deemed unfranked dividend for tax purposes and taxed at their marginal tax rate. This unfavourable tax outcome can be prevented by:

- Paying back the amount before the company tax return is due (this is often done via a set-off arrangement involving franked dividends); or
- Putting in place a complying loan agreement between the borrower and the company with minimum annual repayments at the benchmark interest rate (8.77% for 2024-25). It's essential that annual repayments are actually made at the correct benchmark interest rate.

A recent ATO review revealed a series of problem areas where taxpayers are getting it wrong:

- Incorrect accounting for the use of company assets by shareholders and their associates. Often, the amounts are not recognised;
- Loans made without complying loan agreements;
- Reborrowing from the private company to make repayments on Division 7A loans;
- The wrong interest rate applied to Division 7A loans (there is a set rate that must be used).

Non-compliance can lead to some very harsh tax outcomes. It's important to identify and ensure Division 7A problems are correctly managed.

Trusts: The ATO's stance on trust distributions

The way in which trusts distribute income has come under intense scrutiny in recent years. As a result of this scrutiny, the ATO has issued new guidelines and warnings dealing with trust distribution arrangements which need to be carefully considered by trustee before taking steps to appoint or distribute income to beneficiaries.

Generally, the ATO will look for arrangements where amounts are allocated or appointed to beneficiaries, but they don't receive the real financial benefit of the distribution. If the arrangement has the effect of reducing the overall tax paid on the income of the trust then this will normally increase the level of risk involved.
Areas likely to attract the ATO's interest include:

- **Circular trust distributions** – where income is appointed from Trust 1 to Trust 2, with some or all of that amount being distributed back to Trust 1 (directly or indirectly). Alternatively, where a company pays dividends to a trust shareholder, which then distributes some of those dividends back to the company. See the red zone risk rating in *Section 100A guidelines and enforcement* below and *Anti-avoidance and 'round robin' trust distributions* in trust housekeeping below.
- **Differences between distributable income and taxable income** – the risk increases when it appears that deliberate attempts have been made to create or take advantage of these differences.
- **Distributions of franked dividends** - franking credit integrity rules are not applied or applied incorrectly when making or receiving franked distributions.
- **Distributions to SMSFs** – the tax treatment of non-arm's length income, entitlements as a result of loans from a related party, and a low rate of return received by an SMSF from its investments.
- **Distributions to tax-preferred beneficiaries** – distributions to tax-exempt entities where the amount is not actually paid across to the beneficiary, where losses are claimed against an entity's share of the trust's net income, where capital and carried forward losses are applied against the entity's share of the trust's capital gains, distributions to entities that pay no or very low rates of tax, distributions to foreign beneficiaries or entities, etc. See also *Tax exempt entities* in trust housekeeping below.
- **Family trust distributions tax** – where distributions made by a trust that has made a family trust election are outside of the family group.
- **Income recharacterisation arrangements** – where special purpose trusts recharacterise ordinary income as discountable capital gains, and where the character of trust income is changed to access the withholding tax provisions.

- **Loss trust moved into group** – where a trust with significant capital losses is moved into a group, the trust loss rules are ignored and related entities attempt to offset gains against the trust's losses.
- **Non-lodgement** – failure to lodge tax returns and meet compliance requirements.
- **Non-residents capital gains** – where capital gains are attributed to a non-resident beneficiary.
- **Potential reimbursement agreements** – where distributions are made to low taxed beneficiaries but the actual payment or economic benefit is directed to another person or entity. See the red zone risk rating in *Section 100A guidelines and enforcement* below.
- **Unit trusts** – where private companies invest in a unit trust and the cost of the units appear inflated, and where entitlements are retained in the trust or used to make loans or payments to shareholders or associates of shareholders of the private company.

Section 100A guidelines and enforcement

In 2022 the ATO issued some updated guidance which deals with the potential application of the integrity rules in section 100A to trust distribution arrangements. We now expect the ATO to be looking closely to ensure that the guidelines are being met.

Section 100A is aimed at situations where income of a trust is appointed in favour of a beneficiary but the real economic benefit of the distribution is provided to another individual or entity. If trust distributions are caught by section 100A, then this generally results in the trustee being taxed at penalty rates rather than the beneficiary being taxed at their own marginal tax rates.

Section 100A doesn't apply when distributions are made to minor beneficiaries or when the arrangement is part of an ordinary family or commercial dealing. The ATO guidelines look at a range of common scenarios and whether they would be fall within some specific 'risk zones'; white, green and red. Each zone determines the level of compliance resources that the ATO will dedicate to reviewing the arrangement:

White zone	Pre-1 July 2014 arrangements. The ATO will not look into these arrangements unless it is part of an ongoing investigation or for arrangements that continue after this date.
Green zone	Low risk arrangements unlikely to be reviewed by the ATO, assuming the arrangement is properly documented. For example, when a trust appoints income to an individual, but the funds are paid into a joint bank account that the individual holds with their spouse then this would ordinarily be a low-risk scenario. Or, where the trust income appointed to the beneficiary is paid within two years and used for their own benefit. Another example of a low-risk arrangement is where the funds are retained by the trust and used as working capital in the trust's business and the beneficiary controls the trustee.
Red zone	High risk arrangements that will be reviewed in detail. **Adult children** High on the ATO's list of red zone arrangements are where an adult child's entitlement to trust income is paid to a parent or other caregiver to reimburse them for expenses incurred before the adult child turned 18. For example, school fees at a private school. Or, where a loan (debit balance account) is provided by the trust to the adult child for

expenses they incurred before they were 18 and the entitlement is used to pay off the loan.

Circular arrangements
Circular arrangements could also fall within the scope of section 100A. For example, section 100A could be triggered if:

- The trustee resolves to appoint income to a company at the end of year 1.
- The company includes its share of the trust's net income in its assessable income for year 1 and pays tax at the corporate rate.
- The company pays a fully franked dividend to the trustee in year 2, sourced from the trust income, and the dividend forms part of the trust income and net income in year 2.
- The trustee makes the company presently entitled to some or all of the trust income at the end of year 2 (which might include the franked distribution).
- These steps are repeated in subsequent years.

With the guidelines now finalised, the ATO is likely to be reviewing trust distribution arrangements in detail to consider where they sit on the three 'risk zones'.

It is essential to ensure that all trust distribution arrangements are reviewed with reference to the ATO's final guidance to determine the level of risk. It is also vital to ensure that appropriate documentation is in place to demonstrate how funds relating to trust distributions are being used or applied for the benefit of beneficiaries.

Trust 'housekeeping'

Payment deferrals

If you are having trouble paying your tax liability, please let us know as soon as possible so we can negotiate a deferral or payment plan with the ATO on your behalf.

TFN reporting

Has your trust lodged TFN reports for all beneficiaries?

Trustees of closely held trusts have some additional reporting obligations outside the lodgement of the trust tax return each year. The Australian Taxation Office (ATO) has been reviewing this area to ensure trustees comply with their obligations, particularly the requirement to lodge TFN reports for beneficiaries.

Where TFN provided

Where beneficiaries have quoted their TFN to the trustee, trustees are required to lodge a TFN report for each beneficiary. The TFN report must be lodged by the end of the month following the end of the quarter in which a beneficiary quoted their TFN. For example, if the trustee receives a beneficiary's TFN in April, they must lodge a TFN report by the end of July.

Where TFN not provided

Where a TFN has not been provided by a beneficiary, the trustee is required to withhold tax at a rate of 47% on distributions made to the beneficiary and pay this to the ATO. The trustee must also lodge an annual report of all amounts withheld.

Failure to comply with the TFN reporting and withholding requirements may trigger penalties.

Trust distributions

Validity of trust distributions

A recent Supreme Court case provides a warning around trust distribution decisions.

The Court found the trustee had failed to give real and genuine consideration to the position of the two beneficiaries of a discretionary trust. Those certain beneficiaries were largely estranged from the family and did not receive trust distributions for the relevant years.

The distributions were found to be invalid, and this case has potential ramifications for trustees exercising their discretion in appointing trust income, especially where some beneficiaries are being excluded due to personal relationships. In turn, if the trust distributions are found be invalid, this could have follow-on tax implications.

Timing of resolutions

Trustees (or directors of a trustee company) need to consider and decide on the distributions they plan to make by 30 June 2025 at the latest (the trust deed may actually require this to be done earlier).

Decisions made by the trustees should be documented in writing, preferably by 30 June 2025.

If valid resolutions are not in place by 30 June 2025, the risk is that the taxable income of the trust will be assessed in the hands of a default beneficiary (if the trust deed provides for this) or the trustee (in which case the highest marginal rate of tax would normally apply).

Anti-avoidance and 'round robin' trust distributions

Anti-avoidance measures prevent family trusts engaging in 'round robin' circular trust distributions with other closely held trusts.

The rules impose penalty rates of tax in situations where trust income is distributed to one or more other trusts and ends up being distributed back to the first trust. Before 1 July 2019, trusts that had made a family trust election were excluded from these rules but that is no longer the case.

Distributions to non-resident beneficiaries

In some circumstances, non-resident beneficiaries can be taxed in Australia on gains relating to foreign assets, which would not have been taxed in Australia had they been made by the beneficiary directly.

If a resident discretionary trust makes a capital gain, the ATO expects that this will normally be taxed in Australia, even if the gain is distributed to a non-resident beneficiary, even if the gain does not relate to Taxable Australian Property (TAP) and even if the gain has a foreign source. Given that non-resident beneficiaries will be taxed at non-resident tax rates and may not have access to the full CGT discount, it will be important for trustees to consider this carefully when deciding on distributions for trusts that have a mixture of resident and non-resident beneficiaries.

The ATO's determinations do not take into account the possible application of any double tax agreements. This is another issue that would need to be considered to reach a conclusion on how distributions are likely to be taxed in the hands of non-resident beneficiaries.

Low-income tax offset and minors reminder

The low-income offset is not available to minors who only receive 'unearned' income (e.g. distributions from a discretionary trust). Minors who only receive 'unearned' income will normally be subject to penalty rates of tax on income that exceeds $416.

Normal marginal tax rates can potentially still apply to minors who receive distributions from a deceased estate or testamentary trust. However, recent amendments to the rules in this area are aimed at ensuring that minors are only taxed at adult marginal tax rates in respect of the income a testamentary trust generates from assets of the deceased estate (or the proceeds of the disposal or investment of these assets).

Streaming of franked dividends and capital gains

Trustees are only able to stream franked dividends (and the franking credits that are attached to those dividends) to a particular beneficiary for tax purposes if the beneficiary's entitlement to the franked dividends is recorded in writing by 30 June 2025. For streaming of capital gains to be effective for tax purposes, the beneficiary's entitlement must be recorded in writing by 30 June if the capital gains form part of trust income for the year or 31 August if the capital gains do not form part of trust income.

We can assist you with this process if you do wish to stream franked dividends or capital gains to specific beneficiaries.

Tax exempt entities

If a trustee resolves to distribute income to a tax-exempt entity, the trustee will be assessed on that income at the top marginal tax rate unless:

- The trustee actually pays the entire distribution within 2 months of the end of the income year; or
- The trustee notifies the entity in writing of its entitlement within 2 months of the end of the income year.

Also, anti-avoidance rules tax the trustee on a portion of the income distributed to a tax-exempt entity where there is a mismatch between the net financial benefit to be received by the entity and the tax treatment of the distribution.