



Australian Government

The Treasury

MODERNISING THE TAXATION OF TRUST INCOME-OPTIONS FOR REFORM

SUMMARY OF CONSULTATION PROCESS

The Government announced on 16 December 2010 that it would conduct a public consultation process as the first step towards updating the trust income tax provisions in Division 6 of Part III of the *Income Tax Assessment Act 1936* and rewriting them into the *Income Tax Assessment Act 1997*.

Consultation process

Consultation on the discussion paper '*Modernising the taxation of trust income-options for reform*' was conducted between 21 November 2011 and 10 February 2012. Thirty-six public submissions were received including two confidential submissions.

Treasury held consultation meetings with a number of industry stakeholders including the Law Council, the Institute of Chartered Accountants in Australia (ICAA), Certified Practising Accountants (CPA), Institute of Public Accountants (IPA), Pitcher Partners, Tax Institute of Australia, Australian Custodial Services Association, Trustee Corporation of Australia in late January 2012.

Treasury also conducted post-consultation forums with the public in Brisbane, Sydney and Melbourne, with around 25 to 30 attendees at each.

Phone conferences were offered in place of the planned forums in Adelaide and Perth due to insufficient interest. There were four participants in the Adelaide phone conference and no participants in the Perth phone conference.

Submissions on the consultation paper can be viewed by clicking on the [Treasury Website](#).



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Summary of key issues

In general, submissions raised a number of concerns regarding the policy design of the framework for taxation of trust.

The key issues

The key issues raised in the submissions were that:

- There is strong support for robust reform of the trust provisions.
- The plan to commence changes on 1 July 2013 would not provide adequate time to develop the rules dealing with the taxation of trust income and to implement systems changes.
- There is concern that the current requirement to determine entitlements by the end of the income year is administratively impractical.
- There is a need for more detailed information about how the models discussed in the paper would operate in relation to allocating taxable income among beneficiaries.
- There is strong support for ensuring that trust distributions retain their character and can be streamed.
- There is strong support for retaining the existing rules in relation to expense allocation. That is, allocating expenses on a fair and reasonable basis.
- There is support for carving bare trust and bare trust like arrangements out of Division 6. However, there is some disagreement on how such a carve-out would be designed.

Responses

On 30 July 2012, the Government announced that it has responded to the issue raised in many submissions requesting more time to develop and consult on the changes. The Government will consult on options to modernise the taxation of trust income with a proposed start date of 1 July 2014.

The Government also announced that it will release a second discussion paper to provide greater details about how the provisions dealing with the taxation of trust income would be amended under each of the proposed models.

Feedback

Feedback on the consultation process for this measure can be forwarded to consultation@treasury.gov.au. Alternatively, you can contact Kate Preston on 02 6263 3116.

Thank you to all participants in the consultation process.