TRUST TAX RETURN PREPARATION

CHECKLIST 2021

This checklist will assist public practice members in discharging their obligations in preparing 2021 trust tax returns.

This checklist should be completed in conjunction with the preparation of tax reconciliation return workpapers.

The checklist provides a general list of major issues that should be addressed but is not designed to be an exhaustive list of all issues that may warrant consideration.

This information is based on legislation current as at 7 June 2021.

**About the author**

This checklist was prepared by Moore Australia (Vic) Pty Ltd on behalf of CPA Australia.

**Disclaimer**

CPA Australia and the authors have used reasonable care and skill in compiling the content of this material. However, CPA Australia and the authors make no warranty as to the accuracy or completeness of any information in these materials. This material is intended to be a general guide only. All practitioners, readers, viewers and users are advised to undertake their own research or to seek professional advice to keep abreast of any reforms and developments in the law. To the extent permitted by applicable law, CPA Australia, its employees, agents and consultants exclude all liability for any loss or damage claims and expenses including but not limited to legal costs, indirect special or consequential loss or damage (including but not limited to, negligence) arising out of the information in the materials.

|  |  |
| --- | --- |
| **ENTITY’S NAME** |  |

| PRIOR YEAR TAX RETURN CONSIDERATIONS | YES | NO | N/A |
| --- | --- | --- | --- |
| Has last year’s tax return been checked for reversing timing differences (e.g. accruals and prepayments)? |  |  |  |
| Has last year’s tax return been checked for recurring timing differences that may need considering in the current year (e.g. amortisation of computer software development pool or blackhole expenditure deductible in accordance with section 40-880 of the *Income Tax Assessment Act 1997 (ITAA 1997))*? |  |  |  |
| Has last year’s tax return been checked for tax losses and capital losses carried forward to the current income year? |  |  |  |
| Have you checked the prior year action sheet for prior year carry forward issues? |  |  |  |
| Comments: | | | |
| STATEMENT OF FINANCIAL POSITION (BALANCE SHEET) | YES | NO | N/A |
| GENERAL | | | |
| Have all balance sheet items been reviewed (e.g. deductibility of consumable stores, asset write-offs, assessability of deferred income, tax treatment of bills of exchange etc.)? |  |  |  |
| Have all movements in provisions been adjusted for (e.g. provision for annual leave, provision for long service leave, provision for obsolete stock, provision for doubtful debts, provision for warranties etc.)? |  |  |  |
| Have sundry creditors been reviewed for accruals / provisions which have not been legally incurred by year end and for non-deductible accrued expenditure (e.g. accrued audit expenditure under Taxation Ruling IT 2625 and accrued superannuation expenditure)? |  |  |  |
| Have sundry debtors been reviewed for prepayments and accrued income (e.g. interest receivable)? |  |  |  |
| Has accrued Fringe Benefits Tax (FBT) been correctly calculated on the basis that a deduction is being claimed for the FBT instalment referable to the June 2021 quarter and an amount added-back of the FBT instalment referable to the June 2020 quarter if claimed in the prior year (as per Taxation Ruling TR 95/24)?  For more information refer to CPA Australia’s [2021 FBT checklist](https://www.cpaaustralia.com.au/-/media/project/cpa/corporate/documents/tools-and-resources/taxation/2021-fbt-checklist.docx). |  |  |  |
| DIVISION 7A | | | |
| Consider whether the trust has an unpaid present entitlement (UPE) owing by a trust to a private company which is part of the same family group during the year ended 30 June 2020. Will such a UPE be regarded as a loan for Division 7A purposes? |  |  |  |
| Does the loan satisfy any of the exemptions under Division 7A (including being treated as an excluded loan) or is it reduced or eliminated because of the company’s distributable surplus or because it has been repaid before the lodgement day? Has it been put on a sub trust which complies with Taxation Ruling TR 2010/3 and Practice Statement PSLA 2010/4?  Refer to CPA Australia’s [2021 Division 7A](https://www.cpaaustralia.com.au/-/media/project/cpa/corporate/documents/tools-and-resources/taxation/division-7a-checklist-detailed-with-instructions-2021.docx) and [Division 7A: UPE](https://www.cpaaustralia.com.au/-/media/project/cpa/corporate/documents/tools-and-resources/taxation/division-7a-upe-checklist-detailed-with-instructions-2021.docx) checklists for more information*.* |  |  |  |

|  |  |  |  |
| --- | --- | --- | --- |
| **STATEMENT OF FINANCIAL POSITION (BALANCE SHEET)** | **YES** | **NO** | **N/A** |
| DIVISION 7A | | | |
| Where the trust has a pre-16 December 2009 UPE, or has put a post 16 December 2009 UPE on sub trust terms, you should consider the application of Subdivision EA of the *Income Tax Assessment Act* 1936 *(ITAA 1936)* - where the trustee makes any loan, payment or forgives a debt in favour of shareholders or associates of the private company.  Please refer to CPA Australia’s [2021 Division 7A: UPE checklist](https://www.cpaaustralia.com.au/-/media/project/cpa/corporate/documents/tools-and-resources/taxation/division-7a-upe-checklist-detailed-with-instructions-2021.docx) for further information*.* |  |  |  |
| PREPAYMENTS | | | |
| Have all prepayments of less than $1,000 (GST exclusive) been claimed as an immediate tax deduction? |  |  |  |
| Have all prepayments required to be made by a Commonwealth, State or Territory law or under an order of a court (e.g. prepaid WorkCover expenditure) been claimed as an immediate tax deduction? |  |  |  |
| Have all prepayments of more than $1,000 (GST exclusive) which were not required to be made under a Commonwealth, State or Territory law or a court order been capitalised and apportioned over the eligible service period to which the prepayment relates? |  |  |  |
| Where the trust is a Small Business Entity (SBE), is an immediate deduction available under the 12-month rule where the eligible service period is 12 months or less?  For prepayments made from 1 July 2020, an entity will be regarded as an SBE for the year ended 30 June 2021 if it carries on business in the 2021 year, and its aggregated turnover was less than $10 million for the year ended 30 June 2020 or its aggregated turnover is likely to be less than $10 million in the 2021 year. The aggregated turnover test not only requires the calculation of the taxpayer’s annual turnover but also that of any affiliate or entity connected with the taxpayer at any time during the year.  As part of the 2020-21 Budget, the small business tax concessions were expanded and as such, businesses with an aggregated annual turnover between $10 million and less than $50 million are eligible for an immediate deduction under the 12-month prepayment rule for prepaid expenses made from 1 July 2020. |  |  |  |
| TRADING STOCK | | | |
| Does the trust have trading stock? |  |  |  |
| Does the opening balance of trading stock for tax purposes agree with the closing balance of trading stock in last year’s income tax return? |  |  |  |
| Is the closing stock valuation method adopted by the trust acceptable for both accounting and tax purposes?  If not, can the tax valuation be justified and is it adequately documented?  Should the valuation method be reviewed to either defer or bring forward assessable income?  Consider the benefits of revaluing closing value of trading stock at year end using the lower of cost, market selling value or replacement value if seeking to reduce taxable income. This choice is available in relation to each item or category of trading stock. |  |  |  |
| Has the trust disposed of any trading stock outside the normal course of business?  If so, has the market value of the trading stock on the day of the disposal been included in the trust’s assessable income, in accordance with section 70-90 of the *ITAA 1997*? |  |  |  |
| Where stock is valued at cost price, is a full absorption costing basis being used? |  |  |  |
| Has a review been conducted to identify whether any stock is obsolete? (see Taxation Ruling TR 93/23) |  |  |  |
| Has the treatment of goods-in transit and consignment stock been considered in the valuation of trading stock? |  |  |  |
| Has a deduction been claimed for consumable stores on hand at balance date? |  |  |  |
| **STATEMENT OF FINANCIAL POSITION (BALANCE SHEET)** | **YES** | **NO** | **N/A** |
| INTELLLECTUAL PROPERTY | | | |
| Have you considered the depreciation rules for certain intellectual property (e.g. certain patents and copyrights) under section 40-95(7) of the *ITAA 1997*? |  |  |  |
| **Comments:** | | | |
| STATEMENT OF COMPREHENSIVE INCOME (PROFIT AND LOSS) | YES | NO | N/A |
| GENERAL | | | |
| Have all income and expense reconciliation adjustments been identified to ensure that the total net income for book and tax purposes are reconciled and correctly calculated? |  |  |  |
| Have expenses in the detailed profit and loss statement been reviewed generally for non-deductible items (e.g. for non-deductible entertainment, private expenses, donations made to entities who are not eligible gift recipients, subscriptions to private publications, capital legal expenses etc.)? |  |  |  |
| Have operating and / or finance leases and hire purchase agreements been properly treated for tax purposes? |  |  |  |
| For interest claimed, has the deductibility of the interest been considered in the light of the use of borrowed funds? |  |  |  |
| Have all timing differences been identified such as foreign exchange gains and losses which are only generally recognised when realised for non-Taxation of financial arrangements (TOFA) entities? |  |  |  |
| If the ATO notified you of a Shortfall Interest Charge (SIC) or General Interest Charge (GIC) liability, has this been claimed as a deduction? |  |  |  |
| Have penalties paid (excluding GIC or SIC) to the ATO, or as otherwise charged under an Australian or foreign law, been treated as non-deductible and interest received from the ATO brought to account as assessable income? |  |  |  |
| Has the treatment of discounts on short-term securities (e.g. bills of exchange, promissory notes) been considered? |  |  |  |
| Has interest received been grossed up for any Tax File Number (TFN) withholding tax deducted and a credit claimed in respect of the amount deducted? |  |  |  |
| Has the trust derived income that is exempt from tax or which is non-assessable non-exempt income (e.g. cash flow boost payment)? |  |  |  |
| Have you considered if any of the income recorded in the accounts could be regarded as unearned income in accordance with the principle in Arthur Murray and therefore should not be included in income for the current year?  Review any deferred income or other creditors shown in the balance sheet to ensure that there is no income which needs to be recognised as being derived for income tax purposes applying the principle in *Arthur Murray (NSW) Pty Ltd v FCT (1965) 114 CLR 314.* |  |  |  |
| For travel expenses, have travel diaries been kept (where applicable) along with other supporting documentation? |  |  |  |
| Has the timing of income and expenditure been considered for long-term construction contracts (if applicable)? |  |  |  |
| Has the potential deductibility of expenditure which has been capitalised for accounting purposes (e.g. capitalised interest) been considered? |  |  |  |

|  |  |  |  |
| --- | --- | --- | --- |
| **STATEMENT OF COMPREHENSIVE INCOME (PROFIT AND LOSS)** | **YES** | **NO** | **N/A** |
| GENERAL | | | |
| Are management fees / consultancy fees paid to related entities calculated on an arm’s length basis and supported by appropriate documentation? |  |  |  |
| Where the trust is carrying on a professional services business does it have a service entity, and is the service fee charged deductible under section 8-1 of the *ITAA 1997* in accordance with the principles set out in Taxation Ruling TR 2006/2?  ATO guidance [‘Your service entity arrangements’](https://www.ato.gov.au/Print-publications/Your-service-entity-arrangements/)provides practical guidance as to whether the fees charged under a service arrangement are commercially realistic and reasonably connected to the business carried on by the professional practice including a range of ‘safe harbour’ commercial rates that could be applied as a mark-up on the cost of providing particular services. |  |  |  |
| Has the holding period rule been considered in respect of franking credits received? That is, have ordinary (preference) shares been held at risk for at least 45 (90) days?  Where appropriate, has a family trust election been lodged in order to comply with the holding period rule?  If no election has been lodged, can beneficiaries of such trusts potentially rely on the small shareholder exception? |  |  |  |
| JobKeeper Payments received by the trust are assessable income and amounts paid to employees are deductible if the general requirements for deductibility are satisfied. |  |  |  |
| Payments made or non-cash benefits provided on or after 1 July 2019 to an employee, director, religious practitioner or under a labour hire agreement are not deductible if the payer fails to withhold (or in the case of a non-cash benefit pay an amount), under the PAYG withholding system or fails to notify the ATO where required to do so. |  |  |  |
| All payments under the JobMaker Hiring Credit Scheme are assessable as ordinary income. Normal deductions apply for amounts paid to employees if those amounts are subsidised by JobMaker Hiring Credits. |  |  |  |
| **Limiting deductions associated with holding vacant land**  Taxpayers who incur costs in respect of holding vacant land, such as interest, land tax, council rates and maintenance costs, will not be eligible to claim a deduction unless the taxpayer is an ‘excluded entity’ or the property is used in carrying on a business as prescribed in the legislation.  Disallowed deductions may form part of the cost base of the vacant land for CGT purposes.  **Excluded entities**  The following taxpayers are excluded from these rules and can continue to claim deductions for the holding costs:   * corporate tax entities * managed investment trusts * superannuation funds (other than SMSFs) * public unit trusts * unit trusts or partnerships of which all the members are entities mentioned above.   **Carrying on a business**  A taxpayer that is not an excluded entity may be allowed a deduction for the holding costs if:   * the vacant land is used (or available to use) in a business carried on by the taxpayer (or related or affiliated entity) for the purpose of gaining or producing assessable income * the vacant land is vacant because of a natural disaster or exceptional circumstances * the taxpayer (or related or affiliated entity) carries on a primary production business on the vacant land or * the land is leased or hired (under an arm’s length dealing) and is used or available for use in carrying on a business. |  |  |  |

| **STATEMENT OF COMPREHENSIVE INCOME (PROFIT AND LOSS)** | **YES** | **NO** | **N/A** |
| --- | --- | --- | --- |
| DECLINE IN VALUE (DEPRECIATION) | | | |
| Important note for 2021 ITRs:  It is expected most assets would be eligible for immediate write-off under either the temporary full expensing (TFE), instant asset write-off (IAWO) or backing business investment (BBI) measures.  The ATO has prepared a useful guide on the application of the depreciation measures available [here](https://www.ato.gov.au/uploadedFiles/Content/SME/downloads/Interaction_of_tax_depreciation_incentives.pdf) and further information has been provided below.  The questions below should still be considered in the event that the assets are not eligible for immediate write-off. |  |  |  |
| Have you ensured this year’s tax opening adjustable value balance agrees to last year’s closing adjustable value? |  |  |  |
| Has the effective life of new acquisitions been reviewed applying Taxation Ruling TR 2019/52020/3?  Is there merit in self-assessing the effective life of any acquired depreciating assets during the year (and, if so, has any documentation been retained to justify any shorter effective life applied, and disclosure been made in the return)? In determining whether to self-assess the effective life be mindful of assets where this is not allowable, e.g. certain intangible assets in section 40-95(7) of the *ITAA 1997.* |  |  |  |
| Have improvements to depreciating assets expensed for accounting purposes as repairs, been capitalised for tax purposes, and included as additions to the tax fixed assets schedule and depreciated? |  |  |  |
| Have additions been reviewed to ensure depreciation has been correctly claimed on depreciating assets? Have additions for accounting and tax purposes been reconciled? |  |  |  |
| For construction of new income-producing buildings or for building extensions, alterations or improvements, is a capital works deduction available under Division 43 of the *ITAA 1997*? Can the trust write-off the cost of any structural improvements or environment protection earthworks under Division 43 of the *ITAA 1997*? |  |  |  |
| Have repairs to buildings which have been expensed for accounting purposes constitute alterations, improvements or extensions to existing buildings which would constitute deductible capital works expenditure under Division 43 of the *ITAA 1997*? |  |  |  |
| Is capital expenditure relating to buildings being correctly claimed at the rate of 2.5% or 4% (which will differ depending on when the construction expenditure was incurred and whether it relates to industrial buildings)? |  |  |  |
| Has scrapped plant and equipment (for which a deduction has been claimed) been physically scrapped, or set aside for scrapping, during the year?  Has any salvage value been included in assessable income? |  |  |  |
| Has the trust stopped using a depreciating asset which has not otherwise been sold or physically scrapped during the 20210 year, in which case a balancing adjustment deduction may be available? |  |  |  |
| Has the motor vehicle depreciation cost limit of $59,1677,581 been applied when calculating depreciation on a car acquired during the 20210 year for tax purposes? |  |  |  |
| Has a profit on the sale of previously leased motor vehicles been brought into account? |  |  |  |
| Have plant conversion and relocation costs been capitalised and depreciated? |  |  |  |
| **Temporary full expensing**  Has temporary full expensing (TFE) been considered in respect of eligible assets?  The TFE rules allow eligible businesses to deduct the full cost of eligible depreciating assets as well as the full amount of the second element of the cost, e.g. amounts to bring the depreciating asset into its present condition and location.  *Eligible businesses*  A business qualifies for TFE if it is an SBE or has an annual aggregated turnover under $5 billion.  The aggregated turnover test not only requires the calculation of the taxpayer’s annual turnover but also that of any affiliate or entity connected with the taxpayer at any time during the year.  *Eligible assets*  To be eligible for TFE, a depreciating asset must be:   * First held and first used or installed for use for a taxable purpose between 7.30 pm AEDT on 6 October 2020 (the Budget time) and 30 June 2022 and * Located in Australia and principally used in Australia for the principal purpose of carrying on a business.   TFE is not available if the depreciating asset is:   * Excluded from the capital allowance rules in Division 40 of the *ITAA 1997* (such as building or other capital works) * Allocated to a low-value pool or a software development pool * Deductible to the entity or another entity under the primary production depreciation rules or * A balancing adjustment event happens to the asset in the current year (for example, it is sold in the year in which the full expensing is applied).   Where the entity has an aggregated turnover of $50 million or more, a depreciating asset is excluded from TFE (in addition to the above exclusions) where:   * The entity entered into a commitment to hold, construct or use the asset before the Budget time or * The asset is a secondhand asset.   *Amount of deduction*  Where TFE applies, the amount that is deductible for the income year (i.e. the decline in value) depends on when the asset starts to be used or installed ready for use for a taxable purpose, as outlined below:   |  |  |  | | --- | --- | --- | | **Start to be used for taxable purpose** | **Amount of decline** | **Example** | | Asset held after the Budget time and started to be used for a taxable purpose in the **same income year.** | Sum of the cost of the asset and amount paid during the income year to bring the asset to  its present condition and location, such as the cost of  Improvements (the second element of cost). | Entity starts to hold and use (or installed ready for use for a taxable purpose) an eligible depreciating asset between the Budget time and 30 June 2021 it can deduct the full cost (including the second element of cost of the asset in the 2020-21 income year). | | Asset held after the Budget time and start to be used for taxable purpose in a **later income year.** | Sum of the assets opening adjustable value for that later income year and the amount included in the second element of cost in that later income year. | Entity starts to hold an eligible depreciating asset between the Budget time and 30 June 2021 but doesn’t start to use the asset or have it installed ready for use for a taxable purpose until after 1 July 2021. The entity will be able to deduct the full cost (including the second element of cost) of the asset in the 2021-22 income year, less any decline in value in the 2020-21 income year for any non-taxable use in the 2020-21 income year. | | Assets held after the Budget time where **balancing adjustment happens in the same income year.** | No deduction allowed. | Entity starts to hold an eligible depreciating asset between the Budget time and disposes of the asset prior to 30 June 2021. |   *SBEs that choose to apply the simplified depreciation rules*  SBEs that apply the simplified depreciation rules can deduct:   * The full cost of eligible depreciating assets that are first held and used or installed ready for a taxable purpose between the Budget time and 30 June 2022 (to be extended to 30 June 2023 as announced in the 2021-22 Federal Budget) * The second element of the cost of existing eligible depreciating assets incurred during this period and * The balance of the general small business pool at the end of the income year (for income years ending between 6 October 2020 and 30 June 2023).   *Balancing adjustment event*  Where a depreciating asset has its decline in value worked out under the TFE rules and subsequently:   * Is not used principally in Australia (e.g. where an asset was intended to be relocated in Australia for business use but this does not occur) or * Ceases to be used for principal purpose of carrying on a business (e.g. if it is applied for private use),   a balancing adjustment event occurs. If such a balancing adjustment event occurs:   * The TFE deduction is clawed back * The first element of the cost of the depreciating asset is the asset’s termination value at the time of the event and * The TFE rules no longer apply to work out the decline in value of that asset for a later income year (albeit, the entity may claim any other capital allowance it is entitled to for that asset).   *Opting out*   * An entity can make a choice to opt-out of TFE for an income year on an asset-by-asset basis. The choice is unchangeable and must be made in an approved form by the day that the income tax return is lodged for the income year to which the choice relates. |  |  |  |
|  |  |  |
|  |  |  |
| **Enhanced instant asset write-off**  Has the enhanced instant asset write-off been claimed in respect of eligible assets?  Where a depreciating asset is not eligible for TFE (or the entity has opted out of TFE for that particular depreciating asset), the enhanced instant asset write-off may apply or will continue to apply to the asset.  Under the enhanced instant asset write-off, SBEs that choose to apply the simplified depreciation rules can deduct the full cost of a depreciating asset that costs less than $150,000 if:   * The asset is first acquired after 7.30pm on 12 May 2015 and * The asset is first used or installed ready for use between 12 March 2020 and 30 June 2021 (extended from 31 December 2020).   SBEs that choose to apply the simplified depreciation rules can **also** deduct:   * The second element of cost of depreciating assets (up to $150,000) incurred in the period and * The general small business pool at the end of an income year provided that it is less than $150,000 in this period.   It is noted that SBEs must apply the simplified depreciation rules in order to claim the enhanced instant-asset write-off.  Medium and larger sized business with an aggregated turnover of between $10 million and $500 million can continue to deduct the full cost of a depreciating asset under the enhanced instant asset write-off if the depreciating asset is not eligible for TFE (or the entity has opted out of TFE for that particular depreciating asset).  Medium and larger sized businesses can deduct the full cost of a depreciating asset that costs less than $150,000 if:   * The asset is first acquired after 7.30 pm on 2 April 2019 and * The asset is first used or installed ready for use between 12 March 2020 and 31 June 2021 (extended from 31 December 2020).   Medium and larger sized businesses can also deduct the first amount of the second element of cost, up to $150,000, that is incurred after the income year in which the asset was used or installed ready for use and is incurred in the period.  Where the cost of the eligible depreciating asset is not eligible for TFE or instant asset write-off, consider whether the entity is eligible for accelerated deduction under the Backing business investment accelerated depreciation measure (see below). |  |  |  |
| DECLINE IN VALUE (DEPRECIATION) | | | |
| **Backing business investment**  Consider whether the taxpayer is eligible for Backing business investment (BBI) accelerated depreciation deductions on purchase of new assets that are ineligible for instant asset write-off or TFE.  Entities with an aggregated turnover of less than $500 million in an income year may be eligible for accelerated depreciation if the entity starts to hold the asset and the asset was first used or installed ready for use for taxable purposes between 12 March 2020 and 30 June 2021 (inclusive).  An asset does not qualify where:   * A commitment to the asset was entered into before 12 March 2020 * The instant asset write-off, TFE or depreciation deductions have been applied to the asset * It relates to buildings or capital works where an amount can be deducted under Division 43 * It is a second-hand depreciating asset or * The asset is not in Australia, or will not be used for the principal purpose of carrying on a business in Australia.   The amount an entity can deduct will depend whether the entity is using the simplified depreciation rules.  For entities that are **not** using the simplified depreciation rules, the amount that the entity can deduct in an income year the asset is first used installed ready for use is 50% of the cost of the depreciating asset in addition to the usual depreciation deductions that would otherwise apply, worked out as if the cost or adjustable value of the asset were reduced by 50%.  SBEs that use the simplified depreciation rules will need to add the general small business pool assets that:   * Cost $150,000 or more (instant asset write-off applies to assets that costs less than this) * Are eligible for backing business investment and * Are not eligible for TFE.   These SBEs can deduct an amount equal to 57.5% (rather than 15%) of the cost (or adjustable value) of a qualifying depreciating asset added to the general small business pool where the asset is held and used or installed ready for use between 12 March 2020 and 30 June 2021 inclusive).  *Opting out*  An entity can make a choice to opt-out of BBI for an income year on an asset-by-asset basis (unless the entity is using the simplified depreciation rules). The choice is unchangeable and must be made in an approved form by the day that the income tax return is lodged for the income year to which the choice relates.  Where the entity is an SBE that chooses to apply the simplified depreciation rules and the depreciating assets are not eligible for any of the immediate or accelerated depreciation deductions above, the asset can be allocated to the general small business pool and depreciated at a rate of 15% regardless of the date of acquisition during the 2021 year, provided the asset starts to be used or is installed ready for use during the 2021 year. Likewise, any second element costs incurred in the 2021 year exceeding the threshold and in respect of an asset that has been pooled in an earlier year will similarly be depreciated at a rate of 15%. For assets included in the pool at the start of the 2020 year the opening pool balance will be depreciated by 30%. Finally, where a balancing adjustment occurs, the asset’s termination value must be deducted from the pool. This applies for the period 1 July 2020 to 7:30pm on 6 October 2020.  For assets first held and installed ready for use from 7:30pm on 6 October 2020 to 30 June 2022, an SBE is required to immediately deduct:   * The full cost of eligible depreciating assets that are first held and used ready for a taxable purpose during this period * The second element of the cost of existing assets that has been incurred during this period and * The balance of the general small business pool. |  |  |  |
| **Other issues related to depreciation** |  |  |  |
| Has the trust allocated expenditure incurred on the development of in-house software which is used solely for a taxable purpose to a software development pool, rather than wait until the software is created and used or held ready for use as a depreciating asset?  Taxpayers are required to create a separate software development pool for each income year for which they incur expenditure on in-house software. Where such expenditure is incurred on or after 1 July 2015 no deduction can be claimed in the first year the expenditure is incurred but such costs will be deductible at a rate of 30% in years two to four and a rate of 10% in year five. |  |  |  |
| Have the blackhole expenditure rules in section 40-880 of the *ITAA 1997* been considered for blackhole capital expenditure incurred during the year? Such expenditure may be regarded as eligible blackhole expenditure where it is not deductible, depreciable or included in the cost base of a Capital Gains Tax (CGT) asset.  Eligible blackhole expenditure is deductible over five years in equal proportions (and there is no pro-rating of the deduction in the year the expenditure is incurred by the taxpayer).  It may be available in relation to the taxpayer’s business or in respect of a former business that used to be carried on or in respect of a business that is proposed to be carried on provided there is a sufficient and relevant connection between the expenditure incurred and the business carried on (see Taxation Ruling TR 2011/6).  Section 40-880(5) of the *ITAA 1997* also provides that no deduction is available under the blackhole deductibility rules where, amongst other things, the expenditureforms part of the cost of land or depreciating asset; it would be taken into account in working out an assessable profit, deductible loss, capital gain or capital loss; it relates to a lease or other legal or equitable right; or if it is deductible under another provision of the Income Tax Assessment Acts. |  |  |  |
| There is a 100% immediate write off available to an SBE for capital expenditure incurred in relation to a proposed business structure or operation where the costs are incurred on or after 1 July 2015 by an SBE that is not carrying on a business in that income year.  Eligible start-up costs which can be written off include, amongst others, legal and accounting advice on how the business can best be structured and implemented.  As part of the 2020-21 Federal Budget, the small business tax concessions were expanded and as such, businesses with an aggregated annual turnover between $10 million and less than $50 million are also eligible for an immediate deduction for the eligible start-up costs incurred from 1 July 2020.  Disclosures are required to be made at Items 50 and 51 of the 2021 trust income tax return in relation to depreciating assets and depreciation claimed in relation to small business entities. There are a number of new labels in the 2021 income tax return to deal with the various immediate write-off measures. |  |  |  |
| NON-RESIDENT TRUSTS | | | |
| Has the residency status of the trust been determined? Where the trust is a non-resident the matters listed below should be considered. |  |  |  |
| Have applicable double tax treaties been considered, particularly the articles dealing with business profits and permanent establishment? |  |  |  |
| If the trust is a non-resident trust, has income from only Australian sources / permanent establishments been included in assessable income? |  |  |  |
| Have the CGT implications of a sale of taxable Australian property by a foreign resident trust been considered?  Taxation Determinations TD 2017/23 and TD 2017/24 provide that the distribution of a capital gain on non-taxable Australian property derived by a foreign resident trust to a resident beneficiary will be assessed under section 99B of the *ITAA 1936* and that such a capital gain cannot be reduced under the 50% CGT discount or by capital losses. |  |  |  |
| FOREIGN RESIDENT CGT WITHHOLDING | | | |
| A 12.5% non-final withholding tax applies to vendors selling certain taxable Australian property which needs to be retained by the purchaser at settlement from the purchase price of the property which must be subsequently remitted to the ATO.  However, such tax will not need to be retained from the purchase price of the property if the vendor obtains a clearance certificate from the ATO prior to settlement or if an exemption or variation otherwise applies.  The foreign resident CGT withholding obligation does not arise in relation to a CGT asset if the market value of the CGT asset is less than $750,000 or if the CGT asset is not taxable Australian real property or an indirect taxable Australian real property interest. |  |  |  |
| CGT DISCOUNT FOR NON-RESIDENT TRUSTS | | | |
| Has the non-resident trust crystallised any capital gains after 7:30 pm on 8 May 2012 that may be eligible for the CGT Discount? If so, has the trust calculated the ‘pre’ and ‘post’ 8 May 2012 portions of their capital gain where applicable?  If the taxpayer is a foreign resident it will not be eligible for the CGT discount on any capital gain that accrued after 8 May 2012. Where the foreign resident acquired ‘taxable Australia real property’ before 8 May 2012 it is recommended that a valuation is obtained to determine the market value of the asset at 8 May 2012, which will enable the CGT discount to be applied to discount the gain (if any) that accrued from acquisition until this date. |  |  |  |
| SUPERANNUATION | | | |
| Have all superannuation contributions claimed for the year been received by a complying fund before year end?  If not, have accrued superannuation contributions been added back? |  |  |  |
| Has the trust provided the prescribed level of superannuation for each employee pursuant to the Superannuation Guarantee Scheme? |  |  |  |
| Has any Superannuation Guarantee Charge (SGC) amount been paid by the entity? If so, has the amount been added back as non-deductible?  If a late superannuation contribution was offset against the superannuation guarantee charge, the offset amount is not deductible. |  |  |  |
| Did the client apply for the Superannuation Guarantee amnesty which allowed the employer to disclose and pay previously unpaid SGC, including nominal interest that they owed their employees for the quarter/s starting from 1 July 1992 to 31 March 2018. This allowed employers to self-correct past non-compliance with Superannuation Guarantee without the usual penalty regime. The SG amnesty ended on 7 September 2020. |  |  |  |
| REPAIRS AND MAINTENANCE | | | |
| Have repairs and maintenance claims been reviewed to ensure they are of a revenue nature and contain no capital items?  Further guidance as to when repair expenditure will be deductible under section 25-10 of the *ITAA 1997* is set out in Taxation Ruling TR 97/23.  An amount will not be regarded as being a deductible repair where it constitutes capital expenditure relating to the replacement of an entire asset (as opposed to part of an asset), a capital improvement or an initial repair. |  |  |  |

|  |  |  |  |
| --- | --- | --- | --- |
| **STATEMENT OF COMPREHENSIVE INCOME (PROFIT AND LOSS)** | **YES** | **NO** | **N/A** |
| BAD DEBTS | | | |
| Have bad debts written off during the year been claimed as a tax deduction? Is there documentation on file evidencing the company’s inability to collect the debt? Have any of these debts been compromised or released before being written off, in which case a bad debt deduction will not be available?  For bad debts claimed as deductions during the year has:   * the debt been physically written off prior to balance date, or is there a Trustee minute authorising the writing-off of the debt prior to year-end, confirming that the debt is irrecoverable? * the debt either previously been returned as assessable income by the trust or does it represent a loan made in the ordinary course of a money lending business? * the trust satisfied the trust loss provisions (Schedule 2F of the *ITAA 1936)* during the period from when the debt was created to when the debt is proposed to be written off as bad? |  |  |  |
| Comments: | | | |
| TAX RETURN FORM COMPLETION | YES | NO | N/A |
| FAMILY TRUST / INTERPOSED ENTITY ELECTION STATUS (FRONT COVER) | | | |
| Has the trust made a family trust election (FTE)? If so, in what year was the FTE made? |  |  |  |
| Has the trust made an interposed entity election (IEE)? If so, in what year was the IEE made?  A trust may be required to make an IEE to be included in the family group of a trust that has made a family trust election. |  |  |  |
| Where a trust that has made an FTE distributes income or capital to another trust which is not part of the family group and which has not made an IEE, the distribution may be subject to family trust distributions tax (FTDT) which is currently levied at a rate of 47% on the trustee of the family trust.  Note that subsequent distributions by a trust that has made an IEE of income to entities outside the family group may also attract FTDT. |  |  |  |
| If an FTE has not yet been made, should the trust make an FTE in order to apply tax losses, pass on franking credits, satisfy the continuity of ownership test in respect of a subsidiary company’s tax losses or to be excluded from the trustee beneficiary reporting rules?  The trust loss measures in Schedule 2F of the *ITAA 1936* do not apply to the carrying forward of capital losses.  An FTE may also be required to be made where one or both of the parties seeking to apply the CGT small business restructure rollover relief under Subdivision 328-G of the *ITAA 1997* is a non-fixed trust. |  |  |  |
| Comments: | | | |
| MANAGED INVESTMENT TRUST – CAPITAL ACCOUNT ELECTION (FRONT COVER) | | | |
| Is the trust a managed investment trust pursuant to Division 275 of the *ITAA 1997*?  Has the trust made an election to have its eligible assets (e.g. shares, units and real property) treated exclusively on capital account?  Managed investment trusts that have made the irrevocable election to have their eligible assets on capital account will have the CGT provisions apply to disposals of eligible assets exclusively. |  |  |  |
| Comments: | | | |
| CAPITAL GAINS TAX (CGT) (ITEM 21) | | | |
| Have all capital gains arising under the CGT provisions for the 2021 year been correctly identified? Are any of these capital gains exempt? |  |  |  |

|  |  |  |  |
| --- | --- | --- | --- |
| **TAX RETURN FORM COMPLETION** | **YES** | **NO** | **N/A** |
| CAPITAL GAINS TAX (CGT) (ITEM 21) | | | |
| Did the trust apply any CGT rollover relief in respect of disposals of CGT assets during the 2021 year?  A trust which is an SBE may apply small business CGT restructure rollover relief where the eligibility conditions set out in Subdivision 328-G of the *ITAA 1997* have been satisfied. A trust will be an SBE for the purposes of Subdivision 328-G the 2021 year where it carries on business and its aggregated turnover is less than $10 million. |  |  |  |
| Have all elements of the cost base of a CGT asset be considered for a CGT event occurring in relation to that CGT asset for the year ended 30 June 2021? In particular, have all eligible incidental costs on acquisition and disposal be considered as well as any capital improvements in the cost base of the asset? Do the market valuation substitution rule, or any other cost base modifications apply? |  |  |  |
| Are the capital proceeds received on the disposal of the CGT asset under the CGT event being correctly determined? Do the market value substitution rule or other modifications to capital proceeds apply? |  |  |  |
| Where pre-CGT acquired assets were sold during the 2021 year, were there any sales of related separate post CGT assets (particularly taking into account the 2021 CGT improvement threshold of $155,849? |  |  |  |
| Have all capital gains calculations been reviewed for their correctness? |  |  |  |
| Has a book-to-tax reconciliation been performed to reconcile the difference between the accounting and tax capital gains? |  |  |  |
| Have you considered whether capital gains are eligible for the 50% CGT discount reduction, and how the distribution of any such gains may impact beneficiaries? Can such a capital gain be streamed under the trust deed to specifically entitled beneficiaries?  Has the application of the rules grossing-up capital gains been considered by the trustee? Where the trust is a discretionary trust, are capital gains being distributed in the most tax effective way to specifically entitled beneficiaries who can best utilise the streamed capital gains? It should be noted that any company beneficiary receiving a discounted gain will not be entitled to claim the CGT discount on any grossed-up amount of the gain which the company receives. |  |  |  |
| Have you considered whether capital gains may be able to be reduced / eliminated in accordance with the small business CGT concessions? Have you considered the impact of any distribution of the gain sheltered by those concessions on beneficiaries?  For more information on the eligibility conditions for the concessions refer to CPA Australia’s [2021 Tax preparation checklist](https://www.cpaaustralia.com.au/-/media/project/cpa/corporate/documents/tools-and-resources/taxation/2021-tax-preparation-checklist.docx?). |  |  |  |
| Have any capital gains been distributed to foreign resident beneficiaries?  Draft Taxation Determination 2019/D6 provides that if the trust is a non-fixed trust, Division 855 will not apply to exempt the foreign resident beneficiary from CGT even if the disposal is in relation of an asset that is not Taxable Australian Property. |  |  |  |
| Has any sale consideration been received during the year under an eligible earnout arrangement relating to the prior year disposal of a CGT active asset in which case the consideration received is disregarded in the 2021 year but will form part of the capital proceeds relating to the disposal of that asset in that earlier year?  Care should be taken to ensure that all the requirements of being an eligible earnout arrangement under Subdivision 118-I of the *ITAA 1997* are satisfied. |  |  |  |
| Has the trust received any financial benefits representing a capital gain which has been streamed from another trust? |  |  |  |
| **Comments:** | | | |

|  |  |  |  |
| --- | --- | --- | --- |
| **TAX RETURN FORM COMPLETION** | **YES** | **NO** | **N/A** |
| ATTRIBUTED FOREIGN INCOME (ITEM 22) | | | |
| Did the trust have a direct or indirect interest in a foreign trust, controlled foreign company or transferor trust?  If the answer is yes, has an International Dealings Schedule (IDS) been prepared for the year ended 30 June 2021? |  |  |  |
| Comments: | | | |
| LOSSES INFORMATION (ITEMS 25 and 27) | | | |
| Have the trust loss provisions in Schedule 2F of the *ITAA 1936* been reviewed to ensure the deductibility of a bad debt or a prior year tax loss claimed by the trust?  Prior to being eligible to recoup a tax loss deduction, a trust is required to satisfy various tests. Separate loss recoupment rules apply to fixed trusts, non-fixed trusts and family trusts under Schedule 2F of the *ITAA 1936* as follows:  *Fixed trusts* – fixed trusts are trusts where beneficiaries have vested and indefeasible interests in all of the income and capital of the trust. Fixed trusts are required to satisfy the income injection test and the 50% stake test. Where the 50% stake test cannot be satisfied, an alternative loss recoupment test may be available under section 266-45 of Schedule 2F of the *ITAA 1936* where a non-fixed trust (other than a family trust) holds 50% or more of the fixed entitlements to the income or capital of the fixed trust. In these circumstances, the non-fixed trust holding the interest in a fixed trust must be able to pass the pattern of distributions test, the control test and the 50% stake test as if it had notionally incurred the tax losses instead of the fixed trust.  *Non-fixed trusts* – non-fixed trusts are trusts that do not meet the definition of a fixed trust. Non-fixed trusts are required to satisfy the income injection test, the pattern of distributions test, the 50% stake test (if applicable) and the control test.  *Family trusts* – family trusts are trusts that have made a family trust election in accordance with section 272-80 of Schedule 2F of the *ITAA 1936*. Family trusts are only required to satisfy a modified version of the income injection test.  The legislative distinction between fixed and non-fixed trusts became somewhat blurred following the issue of the ATO’s Decision Impact Statement in respect of the Federal Court decision in *Colonial First State Investments Ltd v Commissioner of Taxation* (2011) FCA 16. However, the Commissioner of Taxation may exercise a discretion to treat a trust as a fixed trust in certain circumstances. Practical Compliance Guideline PCG2016/16 provides practical guidance on how the Commissioner exercises this discretion including the application of safe harbours that allow trustees of certain trusts to manage their tax affairs on the basis that the Commissioner has exercised a discretion to treat the trust as a fixed trust. |  |  |  |
| If the trust has tax losses and net capital losses in excess of $100,000 or is a listed widely held trust and fails the majority ownership test for a loss, has a Losses Schedule been completed? |  |  |  |
| Does the trust have an interest in a controlled foreign company that has 2021 losses greater than $100,000, or has it deducted or carried forward a loss greater than $100,000 to later income years? If so, a Losses Schedule must also be completed. |  |  |  |
| **Comments:** |  |  |  |
| OVERSEAS TRANSACTIONS / THIN CAPITALISATION (ITEM 29) | | | |
| Have the transfer pricing provisions in Division 815 of the *ITAA 1997* (i.e. the need for commercial arm’s length principles) been applied to cross-border transactions with international related parties? |  |  |  |
| Are the arm’s length conditions of cross-border transactions consistent with the arm’s length methodologies approved by the OECD as effectively required under section 815-135 of *ITAA 1997?* |  |  |  |

|  |  |  |  |
| --- | --- | --- | --- |
| **TAX RETURN FORM COMPLETION** | **YES** | **NO** | **N/A** |
| OVERSEAS TRANSACTIONS / THIN CAPITALISATION (ITEM 29) | | | |
| Has the trust prepared contemporaneous documentation in respect of the arm’s length conditions of any cross-border transaction setting out the arm’s length methodology used in identifying the arm’s length conditions and pricing of such a transaction?  Does such documentation satisfy the requirements of Subdivision 284-E of Schedule 1 of the *Taxation Administration Act (TAA 1953)* and Taxation Ruling TR 2014/8? |  |  |  |
| Is the trust eligible to elect to apply the simplified transfer pricing record keeping options under Practical Compliance Guideline PCG 2017/2 to reduce the amount of contemporaneous transfer pricing documentation administratively required to be retained in order to ensure that a penalty for a failure to maintain a reasonably arguable position will not be imposed? |  |  |  |
| Was the aggregate amount of your transactions or dealings with international related parties greater than $2 million? If so, has a 2021 IDS been completed? |  |  |  |
| Have the thin capitalisation provisions in Division 820 of the *ITAA 1997* been considered? The following entities are subject to the thin capitalisation provisions:   * Australian entities with certain overseas operations, and their associate entities (outward investors) * Australian entities that are foreign controlled (inward investors) * Foreign entities with operations or investments in Australia that are claiming debt deductions (inward investors).   Check whether the outward investor’s foreign assets represent less than 10% of its total assets. If so, the exemption in section 820-37 of the *ITAA 1997* may apply.  Checkwhether the sum of thetrust’sdebt deductions together with all the debt deductions of its associate entities is $2 million or less. If so, the exemption under section 820-35 of the *ITAA 1997* may apply. Refer to Taxation Determination TD 2019/12 for the ATO’s views as to the type of costs that are debt deductions.  Does the entity need to work out its maximum allowable debt (e.g. the safe harbour debt amount) under the thin capitalisation provisions in Division 820 of the *ITAA 1997*?  If the thin capitalisation provisions apply, has a 2021 IDS been completed? |  |  |  |
| Has the entity paid any interest or royalties to overseas entities? If yes, has a 2021 IDS been prepared? |  |  |  |
| Section 815-140 of the *ITAA 1997* essentially provides that the transfer pricing provisions under Subdivision 815-B may apply to reduce any interest rate charged on related party debt to an arm’s length amount which may result in reduced debt deductions. The thin capitalisation provisions under Division 820 of the *ITAA 1997* are then applied after any transfer pricing benefit has been cancelled to determine whether an entity’s adjusted average debt exceeds its maximum allowable debt. |  |  |  |
| Was any beneficiary who was not a resident of Australia at any time during the year ‘presently entitled’ to a share of the trust income?  If the answer is yes**,** an attachment should be prepared that includes the following information in relation to the beneficiary:   * the beneficiary’s name and residential address * details of any distribution to the beneficiary, including amounts of interest, royalties, franked and unfranked dividends * if a withholding amount has been paid and remitted to the ATO from the distribution, the amount of the distribution and the withholding amount paid * if the beneficiary’s residency status changed during the year, detail when the beneficiary ceased to be an Australian resident |  |  |  |

|  |  |  |  |
| --- | --- | --- | --- |
| **TAX RETURN FORM COMPLETION** | **YES** | **NO** | **N/A** |
| OVERSEAS TRANSACTIONS / THIN CAPITALISATION (ITEM 29) | | | |
| * if tax has been deducted by the trustee from income not subject to withholding tax, the amount of any credit for such tax remittance * if the trust is a fixed trust and at least 90% of its assets, held either directly or indirectly, are not taxable Australian property * details of any non-Australian sourced income derived whilst the beneficiary was a non-resident. |  |  |  |
| **Comments:** | | | |
| PERSONAL SERVICES INCOME (PSI) (ITEM 30) | | | |
| Does the income of the trust include income which is an individual’s PSI? If yes, the trust must complete the PSI disclosures at Item 30.  PSI is included in the individual’s personal income tax return. PSI is income that is mainly a reward for an individual’s personal efforts or skills. Please refer to CPA Australia’s [2021 PSI / PSB self-assessment checklist](https://www.cpaaustralia.com.au/-/media/project/cpa/corporate/documents/tools-and-resources/taxation/psi-or-psb-self-assessment-checklist-2021.docx) for further information as to when PSI derived via a trust will be regarded as being derived by an individual. |  |  |  |
| Comments: | | | |
| TAXATION OF FINANCIAL ARRANGEMENTS (TOFA) (ITEM 31) | | | |
| Have you considered the application of the TOFA rules to the trust?  The TOFA rules apply to the following entities:   * authorised deposit-taking institutions, securitisation vehicles, and financial sector entities with an aggregated turnover of $20 million or more * a superannuation entity, a managed investment scheme or entities with a similar status under foreign law, if the value of the entity’s assets is $100 million or more * any other entity (excluding individuals) which satisfies one or more of the following: * an aggregated turnover of $100 million or more * assets of $300 million or more or * financial assets of $100 million or more.   Trusts that do not meet the above can elect in to the TOFA regime.  If the trust has previously been subject to TOFA, this does not change if the thresholds above are no longer satisfied.  The aggregated turnover test includes the annual turnover of any entity a trust is connected with, or any affiliate of the trust (including foreign resident companies and trusts). |  |  |  |
| **Comments:** | | | |
| KEY FINANCIAL INFORMATION AND BUSINESS AND PROFESSIONAL ITEMS (ITEMS 33-49) | | | |
| Have all the appropriate disclosures on key financial information been made? |  |  |  |
| Has the trust disclosed all payments made during the year (including salaries, wages, commissions, superannuation contributions and allowances) to associated persons? |  |  |  |
| Has total salary and wages expenditure been disclosed and reconciled to Label W1 on the BAS? |  |  |  |
| From the 2021 income year it is necessary to disclose the aggregated turnover of the entity and the aggregated turnover range, if the trust is claiming TFE, loss carry back, BBI, IAWO or any of the small business entity concessions. |  |  |  |
| **Comments:** |  |  |  |

|  |  |  |  |
| --- | --- | --- | --- |
| **TAX RETURN FORM COMPLETION** | **YES** | **NO** | **N/A** |
| CAPITAL ALLOWANCES (ITEM 50) | | | |
| Did the trust hold any depreciating assets (tangible or intangible) during the year? If so, have the appropriate disclosures been made in relation to the trust’s capital allowances? |  |  |  |
| **Comments:** | | | |
| SMALL BUSINESS ENTITY SIMPLIFIED DEPRECIATING ASSETS (ITEM 51) | | | |
| If the trust is a small business entity, has the appropriate small business entity depreciating assets and small business depreciation claim been disclosed? Refer to the above ‘decline in value’ for further information. |  |  |  |
| **Comments:** | | | |
| INCOME OF THE TRUST ESTATE (ITEM 56) | | | |
| What is the trust’s ‘income’ for the 2021 year?  The income of the trust estate is the trust’s income according to trust law concepts. Following the High Court’s decision in *FCT v Bamford* [2010] HCA 10 it is necessary to consider any definition of income contained in the trust deed to determine what the trust’s income will be. Such trust income may differ from the trust’s accounting income and/or the net income of the trust for tax purposes. In addition, it is also necessary to consider the Commissioner of Taxation’s view on the meaning of the income of the trust contained in Draft Taxation Ruling TR 2012/D1. |  |  |  |
| Comments: | | | |
| STATEMENT OF DISTRIBUTION (ITEMS 57 to 60) | | | |
| What share of the income of the trust estate will be allocated to each beneficiary?  *Allocation of share of trust income (and share of net income)*  The ATO has withdrawn its administrative treatment that previously permitted trustees of non-fixed trusts to make resolutions after 30 June. If the trust deed requires the trustee to make a beneficiary presently entitled to trust income by way of a resolution, this resolution must now be made by the end of the income year (i.e. 30 June). This resolution will determine each beneficiary’s share of the trust income which in turn will establish who is to be assessed on share of the trust's net income (i.e. taxable income). If the trust deed requires a resolution to be made at a date before 30 June the trustee should comply with the requirements of the deed. For further information refer to CPA Australia’s [Trustee Guidance Resolutionsfact sheet](https://www.cpaaustralia.com.au/professional-resources/taxation/trusts).  *Streaming of capital gains and franked distributions*  Trustees are permitted to stream capital gains and franked distributions in certain circumstances. Trustees should be aware that the ability to stream such amounts is dependent on the terms of the trust deed, the trustee making a resolution making beneficiaries specifically entitled to such amounts by the required dates and satisfying various conditions relating to the streaming of franked dividends and capital gains under Subdivisions 207-B and 115-C of the *ITAA 1997* respectively. For further information refer to CPA Australia’s [Trust Streaming Manual](https://www.cpaaustralia.com.au/professional-resources/taxation/trusts). |  |  |  |
| If the trust is a unit trust, have you considered the potential application of CGT Event E4 where a non-assessable amount is paid to unitholders, e.g. Cash Flow Boost? If applicable, this section will operate to reduce cost base of the units and may potentially give rise to a capital gain. Refer to sections 104-70 and 104-71 of the *ITAA 1997* for further details as to how and when CGT event E4 may apply. |  |  |  |
| Check whether an individual beneficiary may be entitled to the small business income tax offset for the year ended 30 June 2021 where that individual is assessed on a share of trust income earned by a trust which is a small business entity. The offset is available for 13 per cent of the income tax payable on the portion of an individual’s taxable income that is their share of the trust’s ‘total net small business income’ which is based on their proportional share of trust income. A trust is a small business entity if it carries on business and its aggregated turnover for the 2021 year for the purposes of the offsetis less than $5 million. Trustees and certain prescribed persons are not entitled to the offset. |  |  |  |

|  |  |  |  |
| --- | --- | --- | --- |
| **TAX RETURN FORM COMPLETION** | **YES** | **NO** | **N/A** |
| STATEMENT OF DISTRIBUTION (ITEMS 57 to 60) | | | |
| Check whether a beneficiary has been made presently entitled to trust income due to a reimbursement agreement with a third party. If so, section 100A of the *ITAA 1936* may deem a beneficiary not to be presently entitled.  If a tax-exempt entity is being made presently entitled to a proportion of trust income, the trustee should ensure that a similar proportion of the net income (i.e. taxable income) is attributed to the entitlement. If the tax-exempt entity has not received a payment in respect of their entitlement within two months of the end of the year, the trustee should ensure that the tax-exempt beneficiary is notified of this entitlement in writing.  If there is a mismatch between the proportion of trust income compared to the proportion of net income, or if the trustee fails to notify the exempt entity of their entitlement, then sections 100AA and 100AB of the *ITAA 1936* may deem the exempt entity to not be presently entitled to the income of the trust estate. The trustee will therefore pay tax on net income at the effective highest marginal rate being currently 47%. |  |  |  |
| If the trust is a resident trust have you considered the applicability of section 115-230 of the *ITAA 1997* which can allow the trustee to be assessed on a capital gain that would be otherwise assessed to an income beneficiary? |  |  |  |
| Where an FTE has been made, is the trust distributing only to family group members or entities that have made the appropriate IEE?  Distributions by a trustee of a trust that has made an FTE, or by an entity that has made an IEE, to persons and entities outside the family group are potentially taxed under the FTDT which is levied at 47% for the year ended 30 June 2021.  Section 272-60 of Schedule 2F of the *ITAAA 1936* provides that a trustee ‘distributes’ income or capital to a person outside the family group if it pays or credits income or capital to such a person; transfers property to that person, or allows the use of that property by the person; deals with money or property for or on behalf of a person or as the person directs; applies money or property for the benefit of the person; or extinguishes, forgives, releases or waives a debt or other liability owed by the person. Further guidance as to what constitutes a distribution to an entity outside the family group is set out in Taxation Determination TD 2017/20*.* |  |  |  |
| Have TFNs or addresses been obtained for all beneficiaries?  Has the ATO been previously notified of the TFNs of such beneficiaries? |  |  |  |
| Is a trustee beneficiary statement required, i.e. where a closely held trust that distributes certain untaxed or tax-preferred amounts to trustee beneficiaries? |  |  |  |
| For closely held trusts that are not excluded, will the trust be required to lodge an Annual TFN Withholding Report in respect of any tax withheld under the TFN withholding rules? |  |  |  |
| **Comments:** | | | |
| **OTHER ATO FORMS / ELECTIONS** | **YES** | **NO** | **N/A** |
| NOTICES AND ELECTIONS | | | |
| Have all the relevant notices and/or elections relied on by the entity been properly prepared? |  |  |  |

|  |  |  |  |
| --- | --- | --- | --- |
| **OTHER ATO FORMS / ELECTIONS** | **YES** | **NO** | **N/A** |
| NOTICES AND ELECTIONS | | | |
| Where applicable, have you completed the following schedules: |  |  |  |
| * CGT schedule |  |  |  |
| * Family trust election, revocation or variation? |  |  |  |
| * Interposed entity election or revocation? |  |  |  |
| * Losses schedule? |  |  |  |
| * Non-individual PAYG payment summary schedule? |  |  |  |
| * Rental property schedule? |  |  |  |
| * International Dealings Schedule? |  |  |  |
| * TFN Report – for trustees of closely held trusts? |  |  |  |
| Have all notices and / or elections, where lodgment is not required, been appropriately sighted and retained on record? |  |  |  |
| INTERNATIONAL DEALINGS | | | |
| Will the foreign resident beneficiaries of the trust be presently entitled to any unfranked dividends, interest or fund payment amounts?  If so, has the appropriate amount of tax been withheld and remitted to the ATO in relation to each foreign resident beneficiary? |  |  |  |
| Has all foreign sourced income been identified and returned as assessable income?  If so, has foreign income been grossed up for the appropriate taxes? |  |  |  |
| Has withholding tax been deducted from interest, royalties and unfranked dividends paid to non-residents or offshore / foreign ‘branches’ of resident trusts during the year? |  |  |  |
| Have management fees, software licence fees etc. paid to overseas entities been examined to determine whether they are within the definition of royalties? |  |  |  |
| Have insurance premiums been paid by the entity to non-resident insurers?  If so, has the appropriate amount been deducted and a return been furnished in respect of the foreign premiums as required under Division 15 of the *ITAA 1936*? |  |  |  |
| Have you considered the CFC rules in relation to the attribution of income? |  |  |  |
| Have you considered the ‘transferor trust’ rules in relation to the attribution of income? |  |  |  |
| TAXATION OF FINANCIAL ARRANGEMENTS (TOFA) | | | |
| If the trust is subject to the TOFA rules in the 2021 income year, has it prepared elections for this year, including elections to apply the elective tax-timing methods to its financial arrangements? |  |  |  |
| GENERAL VALUE SHIFTING REGIME | | | |
| Have the value shifting rules been considered in respect of:   * any acquisitions or disposals of equity or debt interests in the trust (or the trust’s subsidiaries, if appropriate) * creation of rights in non-depreciating assets * non-arm’s length dealings with related parties? |  |  |  |

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **OTHER ATO FORMS / ELECTIONS** | | | **YES** | | **NO** | **N/A** |
| OTHER TAX ISSUES | | | | | | |
| Do the amounts disclosed in the Labels on the Business Activity Statements of the trust reconcile to the relevant accounts of the trust? | | |  | |  |  |
| Has the carry forward action sheet (attached to this checklist) been completed? | | |  | |  |  |
| **Comments:** | | | | | | |
| ENTITY’S NAME |  | INITIAL | | DATE | | |
| Preparer | |  | |  | | |
| Reviewer | |  | |  | | |
| Partner | |  | |  | | |

**Year ended 30 June 2021**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| CARRY FORWARD ACTION SHEET | | | | |
| DATE | ITEM CARRIED FORWARD | $ | WORKING PAPER REF | CHECKED BY |
|  | Net revenue losses carried forward |  |  |  |
|  | Net capital losses carried forward |  |  |  |
|  | CGT small business rollover amount |  |  |  |
|  | Other CGT rollover |  |  |  |
|  | Other assessable income amount |  |  |  |
|  | Other deductible expenses (i.e. prepayments) |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |

|  |  |  |
| --- | --- | --- |
| POINTS FOR PARTNER REVIEW | | |
| DATE | REVIEW POINT | CHECKED BY |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |