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**Web Event starting
soon**

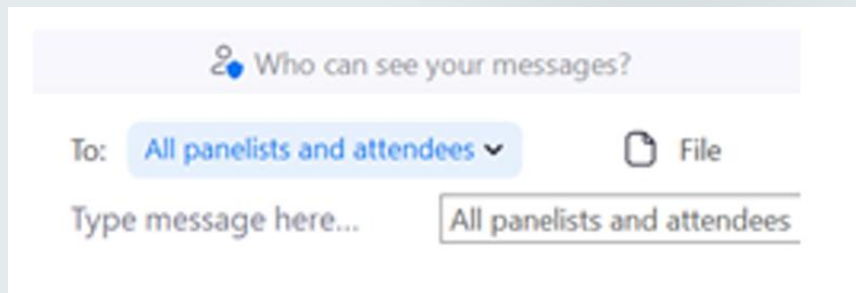
Funky music by Cory Wong

Section 100A: The ATO Responds

Monday 21 March 2022

Chat to All Attendees

1. Go to "Chat" in Zoom
2. Click on "All panelists and attendees"



Let's make this one giant chat group!





CHANGE
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Special WEB EVENT

Making the 2022 Federal Budget “Client Friendly”

Friday 1 April 2022 1:00pm Syd/Melb



CHANGE
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We make accounting **client friendly**

ChangeGPS is software for practice management + compliance advisory



3 Key Ways ChangeGPS helps Accountants:

1. More Money - Most accountants don't make the MONEY they should

- Great Systems that are automatically kept up to date
- "One Way" – standardise processes across your accounting firm
- Use the ChangeGPS "VPP" Method to properly "monetise" your services

2. More Love - Most accountant's clients should LOVE them more for what they do

- Your clients don't understand the amazing value you give them unless you tell them (use "VPP" Method documents + emails)
- ChangeGPS reports and documents **make you look great** – gives you the professionalism of a Big 4 firm

3. Faster Work - Helps you do your work faster so you can get back to the "fun stuff"

- Fast client reports that look great
 - FBT / Tax Planning / Structure Advice / Year End Summary



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TaxPlan Plus

Scenario Comparison Report

- Unlimited Scenarios
- Shows total average tax rate for entire family group
- Easily demonstrate tax benefits of:
 - Super Contributions
 - "Bucket Companies"
 - Trust Distributions
 - Tax Planning Strategies

2022 TAX PLAN

SCENARIOS

Base Scenario (RECOMMENDED)

TAXPAYER	TAXABLE INCOME	(\$) TAX ASSESSED	AVERAGE TAX RATE	TAX CREDITS (PAYG \$)	PAYABLE / (REFUND)
Bean Roasters Pty Ltd	\$230,000	\$69,000	30.00%	\$0	\$69,000
Roasters Trust	\$380,000	\$178,600	47.00%	(\$15,000)	\$163,600
Jayden JJ Bean	\$14,800	\$0	0.00%	\$0	\$0
Joe Bean	\$150,000	\$45,817	30.54%	\$0	\$45,817
Mary Bean	\$100,000	\$32,500	32.50%	\$0	\$32,500
ESTIMATED TOTAL	\$874,800	\$325,917	37.26%	(\$15,000)	\$310,917

With Super, Tax Adjustments, Bucket CO

With this scenario you will save \$93,141 more tax than "Base Scenario"

TAXPAYER	TAXABLE INCOME	(\$) TAX ASSESSED	AVERAGE TAX RATE	TAX CREDITS (PAYG \$)	PAYABLE / (REFUND)
Bean Roasters Pty Ltd	\$123,000	\$36,900	30.00%	\$0	\$36,900
Roasters Trust	\$0	\$0	0.00%	\$0	\$0
Jayden JJ Bean	\$180,000	\$57,967	32.20%	\$0	\$57,967
Joe Bean	\$175,000	\$55,942	31.97%	(\$15,000)	\$40,942
Mary Bean	\$180,000	\$57,967	32.20%	\$0	\$57,967
New Bucket Co.	\$80,000	\$24,000	30.00%	\$0	\$24,000
ESTIMATED TOTAL	\$738,000	\$232,776	31.54%	(\$15,000)	\$217,776

SUPER CONTRIBUTIONS

We have included within this scenario a total of \$50,000 made in super contributions before year end. If these contributions are made, we estimate an additional \$7,500 of tax is payable by your super fund(s).

This report has only made calculations on the tax effect of any superannuation contributions made by year end, and it is not advice or a recommendation to make a superannuation contribution. A licenced financial advisor can provide you with advice about superannuation contributions.

TAX SAVING RECOMMENDATIONS

This scenario includes tax planning strategies to result in an estimated total tax saved of \$44,051.



TaxPlan Plus

“TaxFlow” Report

- Automatically calculates your client’s next 18 month’s tax payments
- Includes current year tax payable/refundable, PAYG Tax Instalments + ATO repayment plans
- Includes all companies / trusts / SMSF’s / individuals in a client group

2022/2023 Forecast Tax Payments

Based upon your estimated PAYG instalment income, we have made the following estimates of your PAYG instalments and balance of tax payable or refundable. If you believe your 2023 income will be lower, please contact us and we can vary your PAYG instalments to lower amounts or even NIL.

Please note that from 1 July 2022, the ATO may charge penalties and interest if the value if your varied instalments are less than 85% of your actual instalment income.

TAXPAYER	JAN 2022	FEB 2022	MAR 2022	APR 2022	MAY 2022	JUN 2022
Bean Roasters Pty Ltd						
- 2022 Tax Payable (Refund)				\$69,000		
- 2022 PAYG Instalments						
- 2023 PAYG Instalments				\$17,250		
- ATO Tax Repayment Plan	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000
Jayden JJ Bean						
- 2022 Tax Payable (Refund)						
- 2022 PAYG Instalments						
- 2023 PAYG Instalments						
- ATO Tax Repayment Plan						
Joe Bean						
- 2022 Tax Payable (Refund)				\$45,817		
- 2022 PAYG Instalments						
- 2023 PAYG Instalments				\$11,455		
- ATO Tax Repayment Plan						
Mary Bean						
- 2022 Tax Payable (Refund)				\$32,500		
- 2022 PAYG Instalments						
- 2023 PAYG Instalments				\$8,125		
- ATO Tax Repayment Plan						
ESTIMATED TOTAL	\$10,000	\$10,000	\$10,000	\$194,147	\$10,000	\$10,000

THESE ARE ESTIMATES ONLY AND FINAL AMOUNTS MAY CHANGE

The 2023 PAYG instalments above are ESTIMATES ONLY and your official 2023 PAYG Instalments will be informed to you by the ATO once your 2022 Tax Return has been lodged. Please note we have not included any GDP uplift adjustment for your PAYG instalments for 2023 as information about this has not yet been released by the Federal Government. Our estimates below will not be accurate for individuals and entities that are:



Tax Planning Report

ChangeGPS

2022

TAXPLAN + FORECAST

FOR Bean Roasters (J & M Bean) 2021



CHANGE GPS

Better Advice for a Better Future

ChangeGPS
Level 10/40 Creek St
Brisbane City QLD 4001
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2022 TAXPLAN + FORECAST | Bean Roasters (J & M Bean) 2021

TAX ESTIMATES

2022 OVERVIEW OF ESTIMATED INCOME + TAX POSITION


Based upon the information that you provided to us, we have estimated your 2022 tax position to be as follows.

TAXPAYER	TAXABLE INCOME			
	BEFORE TAX PLANNING	AFTER TAX PLANNING	TAX ASSESSED FOR YEAR	BALANCE OF TAX PAYABLE (REFUND)
Bean Roasters Pty Ltd	\$230,000	\$123,000	\$36,900	\$36,900
Roasters Trust	\$380,000	\$0	\$0	\$0
Jayden JJ Bean	\$15,000	\$180,000	\$57,967	\$57,967
Joe Bean	\$155,000	\$175,000	\$55,942	\$40,942
Mary Bean	\$105,000	\$180,000	\$57,967	\$57,967
New Bucket Co.	\$5,000	\$80,000	\$24,000	\$24,000
ESTIMATED TOTAL	\$890,000	\$738,000	\$232,776	\$217,776

TAX PLANNING RESULTS

In this report we recommend a total of \$152,000 be made in tax planning adjustments. These adjustments may include a combination of Trust Distributions, Super Contributions and specific tax planning strategies.

If these strategies, outlined further in this report are adopted, we estimate you will save \$93,141 of tax.



Category	Amount
Before Tax Planning	\$890,000
After Tax Planning	\$738,000

2022 TAXPLAN + FORECAST | Bean Roasters (J & M Bean) 2021

TAX PLANNING RECOMMENDATIONS

Bean Roasters Pty Ltd

STRATEGY	SPEND AMOUNT	ESTIMATED TAX SAVING/(PAYABLE)
Superannuation - Tax Deductible Super Contributions This is tax advice and not financial advice.	\$50,000	\$15,000

In the 2020 tax year, the concessional (tax deductible) super contributions cap is \$28,000 for everyone.

Concessional super contributions include employer contributions (such as super guarantee and salary sacrifice contributions) and personal contributions.

One strategy you could consider is to review your super contribution types and amounts to ensure your super contributions have been maximised.

For example, if your employer contributions for the year are \$18,000, you could choose to "top up" your super to the \$28,000 limit by making either a salary sacrifice contribution of \$10,000 or a personal contribution of \$10,000.

As an example, if you were to contribute the maximum concessional amount of \$28,000 each, the net tax saving would be \$1000. The disadvantage is that your money would be "locked away" until retirement.

Personal Super Contributions

Additionally, individuals under 75 years old can claim a tax deduction for personal super contributions (including those aged 65 to 74 who meet the work test).

To satisfy the work test, a person must work at least 40 hours during a consecutive 30-day period each financial year in order for their fund to accept a personal super contribution for which they can claim a deduction.

If you are interested in discussing this further, please contact our office and ask to speak to a licensed financial adviser.

Instant Asset Write Off - Increased (COVID-19) Looking to expand or improve your business and thinking of buying new or second-hand assets?	\$30,000	\$9,000
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The instant asset write-off is a tax deduction that reduces the tax liability of your business.

You can immediately deduct the cost of a business asset if it costs less than the following amounts and turnover thresholds:

- \$180,000 excluding GST from 12 March 2020 to 30 June 2020 (with business aggregated annual turnover up to \$800 million)
- \$30,000 excluding GST up to 11 March 2020 (with business aggregated annual turnover up to \$50 million)

This applies on a per asset basis, so eligible businesses can immediately write-off multiple assets, and it applies to new or second-hand assets first used or installed ready for use in the above timeframes.

Page 4



What is the real “Tax Gap”?

Let's see a DEMO of TaxPlan Plus
by ChangeGPS to easily find out!

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What is the real “Tax Gap”?

\$29,333 extra tax on \$180,000 distributed to adults on top marginal tax rate instead of distribution to adult child

Plus: Possible Div 293 Tax on Super COntributions

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Australian Government
Australian Taxation Office

Reimbursement agreements and financial accommodation

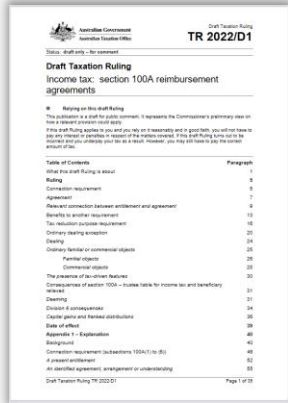
Presenter:

Justin Dearness, Assistant Commissioner, Tax Counsel Network

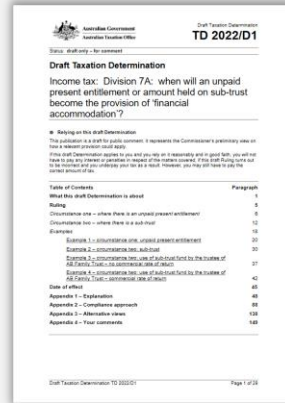
21 March 2022



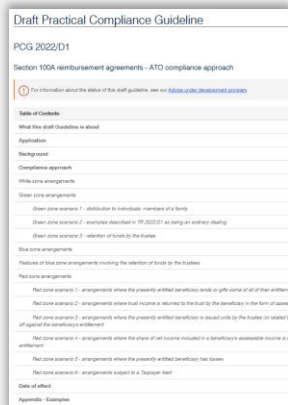
New guidance published 23 February 2022



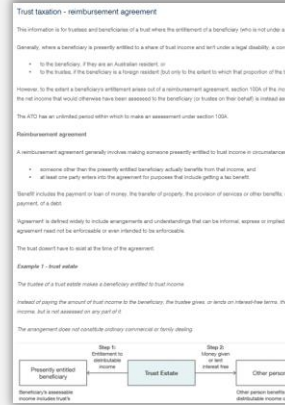
[Draft Taxation Ruling TR 2022/D1](#) Income tax: section 100A reimbursement agreements



[Draft Taxation Determination TD 2022/D1](#) Income tax: Division 7A: when will an unpaid present entitlement or amount held on sub-trust become the provision of 'financial accommodation'?



[Draft Practical Compliance Guideline PCG 2022/D1](#): Section 100A reimbursement agreements – ATO compliance approach



[Taxpayer Alert TA 2022/1](#) Trusts: parents benefitting from the trust entitlements of their children over 18 years of age

Why guidance is needed

- Tax advisers want guidance despite the products being potentially contentious
- The guidance is being released as a package due to overlap in the subject matter
- Common theme of trust distributions
- Prevalence of trusts, behaviour motivated by minimising tax
- Approach to sub-trusts
- Transitional arrangements

Application dates

Upon finalisation, the draft guidance will apply as follows:

	2021	2022 JAN - MAR APR - JUN JUL - SEP OCT - DEC	2023 JAN - MAR APR - JUN JUL - SEP OCT - DEC	2024 JAN - MAR APR - JUN JUL - SEP
100A				
TR 2022/D1	Applies to trust entitlements arising before and after release			
Former website guidance Trust taxation – reimbursement agreement (July 2014)		Applies to trust entitlements arising before 1 July 2022, proposed to be withdrawn		
PCG 2022/D1		Applies where more favourable for the taxpayer than Trust taxation – reimbursement agreement (July 2014)	Applies to trust entitlements arising on or after 1 July 2022	
Division 7A				
TR 2010/3 and PSLA 2010/4		Applies to trust entitlements arising before 1 July 2022, proposed to be withdrawn		
TD 2022/D1			Applies to trust entitlements arising on or after 1 July 2022	

Section 100A draft Taxation Ruling

- Agreement, arrangement, understanding
- Entitlement connected to arrangement
- Benefit to someone else
- Tax benefit purpose
- Not in the course of ordinary family or commercial dealing



Ordinary dealing exception



- The agreement must not have been entered into in the course of ordinary family or commercial dealing
- Phrase not defined in legislation or extrinsic materials
- The exception requires that the whole of the arrangement and each step are explained by ordinary family or commercial objectives

Section 100A draft Practical Compliance Guideline



What doesn't concern us – white zone

Red Zone

The red zone applies to arrangements that are described in paragraphs 30 to 45 of this Guideline. We will conduct further analysis on the facts and circumstances of your arrangement as a matter of priority.

If further analysis confirms the facts and circumstances of your arrangements are high risk, we may proceed to audit where appropriate

Green Zone

The green zone applies to arrangements that are described in paragraphs 17 and 21 of the guidelines. We will not dedicate compliance resources to consider the application of section 100A arrangements in this zone

Blue Zone

The blue zone applies to arrangements that do not fall within any of the other zones described in the PCG 2022/D1 guide. Arrangements in the blue zone may still be subject to review by the ATO but are less likely to attract our attention than arrangements in the red zone.

Examples of the blue zone arrangements are in paragraphs 25 and 26 of the guidelines.

We may contact you to understand your arrangement and resolve any areas of difference including whether section 100A applies to your arrangement.

White Zone

The white zone applies to arrangements entered into in income years that ended prior to 1 July 2014.

Except as described in Paragraph 12 of the guideline, we will not dedicate new compliance resources to consider the application of section 100A to arrangements in this zone.

We will not dedicate compliance resources to consider whether section 100A applies to entitlements arising prior to 1 July 2014 unless:

1. We are otherwise considering your income tax affairs for those years
2. You have entered into an arrangement that continues before and after that 1 July 2014, or
3. The trust and beneficiary tax returns that were required to be lodged for the relevant years were not lodged before 1 July 2017

See 'white zone' in the draft [PCG 2022/D1](#)

What doesn't concern us – green zone

Red Zone

The red zone applies to arrangements that are described in paragraphs 30 to 45 of this Guideline. We will conduct further analysis on the facts and circumstances of your arrangement as a matter of priority.

If further analysis confirms the facts and circumstances of your arrangements are high risk, we may proceed to audit where appropriate

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The green zone applies to arrangements that are described in paragraphs 17 and 21 of the guidelines. We will not dedicate compliance resources to consider the application of section 100A arrangements in this zone

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Examples of the blue zone arrangements are in paragraphs 25 and 26 of the guidelines.

We may contact you to understand your arrangement and resolve any areas of difference including whether section 100A applies to your arrangement.

White Zone

The white zone applies to arrangements entered into in income years that ended prior to 1 July 2014.

Except as described in Paragraph 12 of the guideline, we will not dedicate new compliance resources to consider the application of section 100A to arrangements in this zone.

Entitlement of an individual satisfied by payment that is mixed with the spouse's funds or applied for joint family purposes.

Entitlement of an individual applied to benefit spouse and dependants.

Trustees retain funds underlying entitlement for working capital / investments provided that the presently entitled beneficiary:

- Controls the trustee, is the controller's spouse or manages the business
- Is a company that shares a controller with the trust and the retention of funds is subject to a complying loan agreement.

What concerns us – red zone

Red Zone

The red zone applies to arrangements that are described in paragraphs 30 to 45 of this Guideline. We will conduct further analysis on the facts and circumstances of your arrangement as a matter of priority.

If further analysis confirms the facts and circumstances of your arrangements are high risk, we may proceed to audit where appropriate

Green Zone

The green zone applies to arrangements that are described in paragraphs 17 and 21 of the guidelines. We will not dedicate compliance resources to consider the application of section 100A arrangements in this zone

Blue Zone

The blue zone applies to arrangements that do not fall within any of the other zones described in the PCG 2022/D1 guide.

Arrangements in the blue zone may still be subject to review by the ATO but are less likely to attract our attention than arrangements in the red zone.

Examples of the blue zone arrangements are in paragraphs 25 and 26 of the guidelines.

We may contact you to understand your arrangement and resolve any areas of difference including whether section 100A applies to your arrangement.

White Zone

The white zone applies to arrangements entered into in income years that ended prior to 1 July 2014.

Except as described in Paragraph 12 of the guideline, we will not dedicate new compliance resources to consider the application of section 100A to arrangements in this zone.

Arrangements in which:

- the beneficiaries' entitlements appear to be motivated by sheltering the trust's (taxable) net income from higher rates of tax
- there are contrived elements directed at enabling someone other than the presently entitled beneficiary to have use and enjoyment of the economic benefits referable to the trust net income.

What concerns us – red zone



- Beneficiary lends or gifts some or all of their entitlement to another party
- Beneficiary returns trust income to the trust as assessable income
- Beneficiary entitlements set-off against subscription for units in trust
- Trust net income included in a beneficiary's assessable income exceeds beneficiary's entitlement with difference the result of contrivance
- Entitlements to loss beneficiaries motivated by utilising their tax losses
- Taxpayer alerts which express concerns regarding section 100A.

Outside green and red zones – blue zone

Red Zone

The red zone applies to arrangements that are described in paragraphs 30 to 45 of this Guideline. We will conduct further analysis on the facts and circumstances of your arrangement as a matter of priority.

If further analysis confirms the facts and circumstances of your arrangements are high risk, we may proceed to audit where appropriate

Green Zone

The green zone applies to arrangements that are described in paragraphs 17 and 21 of the guidelines. We will not dedicate compliance resources to consider the application of section 100A arrangements in this zone

Blue Zone

The blue zone applies to arrangements that do not fall within any of the other zones described in the PCG 2022/D1 guide. Arrangements in the blue zone may still be subject to review by the ATO but are less likely to attract our attention than arrangements in the red zone.

Examples of the blue zone arrangements are in paragraphs 25 and 26 of the guidelines. We may contact you to understand your arrangement and resolve any areas of difference including whether section 100A applies to your arrangement.

White Zone

The white zone applies to arrangements entered into in income years that ended prior to 1 July 2014. Except as described in Paragraph 12 of the guideline, we will not dedicate new compliance resources to consider the application of section 100A to arrangements in this zone.

ATO may undertake review to better understand these arrangements and any section 100A risks.

Examples:

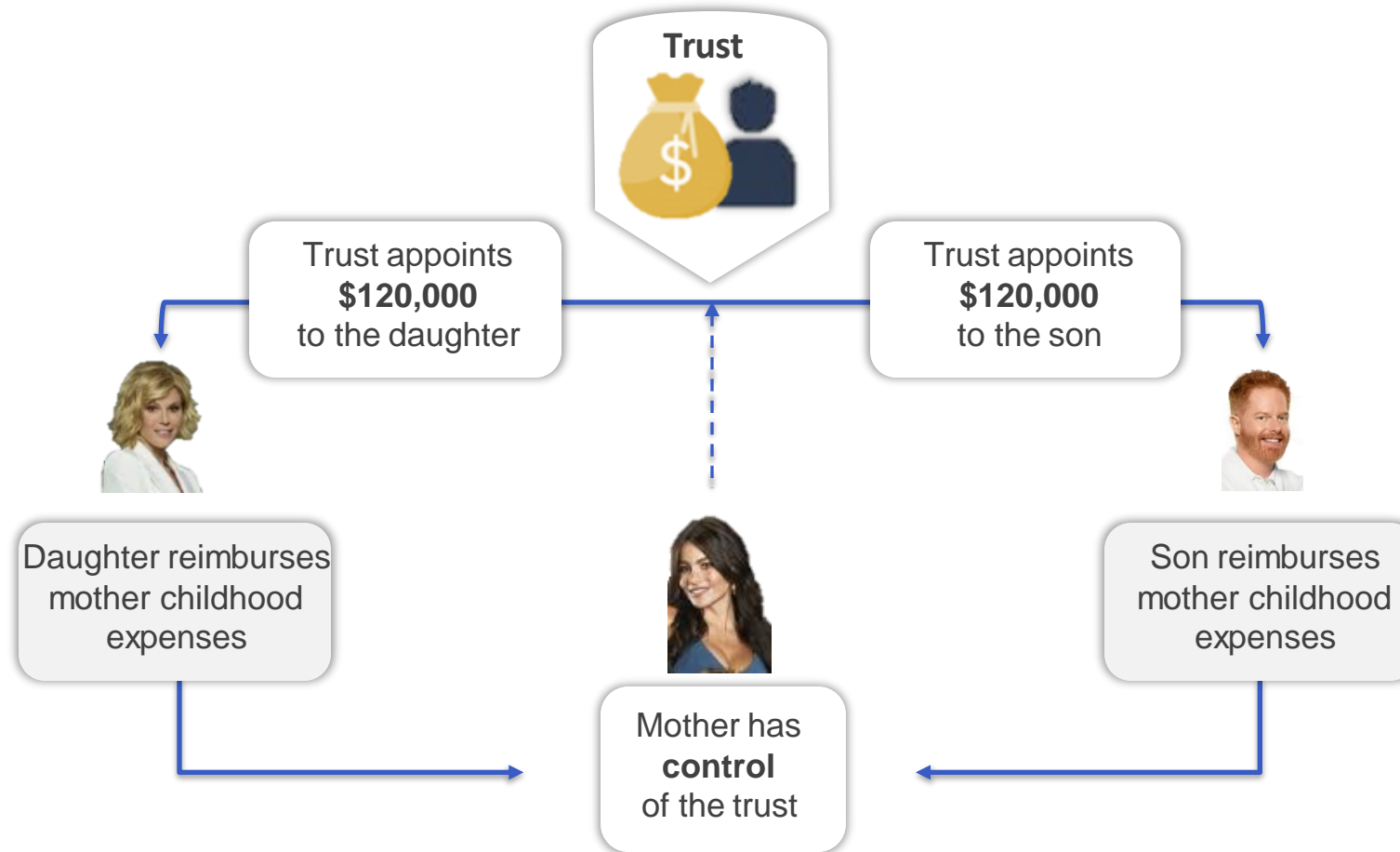
- Pattern of satisfying entitlements by way of set-off
- Distributions to broader range of beneficiaries where trustee retains funds
- Differences between a beneficiary's entitlement and what the beneficiary is assessed on.

Section 100A examples

- Taxpayer alert example
- Loss beneficiaries



TA 2022/1 example



Loss beneficiaries



- \$1 million assessable income
- \$1 million allowable deductions
- Nil taxable income

- The Stone Trust has \$1 million net income which is included in the assessable income of Gem Co as it is being presently entitled to income
- Gem Co reports a nil taxable income and has no distributable surplus – it deducts a \$1 million tax loss in calculating its taxable income.

Further Information

The draft guidance contains a number of examples which may be useful to your circumstances.

Public consultation on the draft guidance is open until 8 April 2022

You can submit consultation feedback or contact us by emailing the ReimbursementAgreement@ato.gov.au mailbox.

Questions?

1. Payment of Distributions

- Do all trust distributions have to be paid in full to each beneficiary to avoid ATO scrutiny?
- Can unpaid trust distributions be kept in the Trust for working capital or investment purposes?



2. Distributions to Adult Children

- In what circumstances can a trust distribution be made to an adult child and offset against private school fees / university fees / rent away from family home / personal living expenses?
- Is there a \$ limit?
- What needs to happen to avoid ATO scrutiny?



3. “Bucket Company”

- Can a trust distribution still be made to a “bucket company”?
- Has anything changed with the new draft Tax Rulings that affects use of “bucket companies”?



4. Gifting of Distribution

- The new draft Tax Rulings appear to prohibit a beneficiary from gifting or using their distribution for any other family member except from themselves.
- Isn't it common within families to share their money?
- Why is this apparently being prohibited?



5. ATO Invalidation of Distribution

- What happens if a trust distribution is invalidated by the ATO?
- Who pays the extra tax – the trustee or the beneficiary? Would the beneficiary get a refund of tax paid previously?
- How does everything get unravelled?



6. “Promoter” Laws

- Para 29 of TA 2022/1 states that an accountant may be held to be a “promoter” and referred to the TPB.
- Does this mean now that a trustee has no discretionary ability to distribute income and an accountant may lose their Tax Agent licence by advising a trustee on their rights under the Trust Deed?



7. Retrospective Audits

- All accountants across Australia would have assisted clients to make a \$180,000 trust distribution to adult children for many prior years – based on common interpretation of the laws.
- With the goalposts being shifted so dramatically now – are all clients who have made \$180,000 or similar distributions to adult children in prior years back to 2014 now going to receive a tax audit, and what options do they have?



8. “Promoter” Penalties



Appears to be different to the original intent of S100A

- Explanatory Memorandum
- Hansard records
- Limited S100A guidance over the years
- If this current ATO interpretation is correct – why didn't the ATO publish this interpretation years ago?



Retrospective Application

- Unfair on Accountants who have been advising by the commonly used understanding of the tax laws over the past 10 years
- ATO's published web materials in 2014 doesn't cover the family dealings used in examples in the recent draft Tax Rulings
- The "Guardian" case is under appeal by the ATO – interpretations are different



Shouldn't these change be made by Legislation from Government?

- This is ATO interpretation
 - Different from 2014 web materials
 - Different to "Guardian" case
- Does the "tax gap" really justify this change in approach by the ATO?



“Promoter” of scheme

- Very harsh?



Overwrites Trust Laws

- Is this valid? Will it actually hold up against trust law?



Mental Health Affect on Accountants

- Has this been considered?
- These draft rulings make accountants appear to have given incorrect advice for many years
 - Is this fair – on top of everything else accountants have had to deal with during COVID?
 - May destroy the trust in advice given by accountants to their clients



Your TA 2022/1 Client Strategy

1. Help your Team to **understand** the issues
 - “Guardian” Case on Appeal
 - Probably another 12 to 18 months of uncertainty
2. Develop a **firm-wide POLICY** for all client Trust Distributions
3. **Educate** your Clients about the changes
 - Confirm your **previous advice was correct** at the time
 - Prepare Clients for **higher tax payable** in 2022 and future years
 - Use **ChangeGPS VPP email**
4. Show clients the tax they would have paid in 2022 and the extra tax they will now have to pay as a result of this Tax Ruling
 - Use ChangeGPS **TaxPlan** to easily show **Scenarios**
5. Give every client a **TaxFlow Plan NOW** (18 month tax payment forecast)
6. **Don't feel bad** or apologise to your clients
 - Tax changes are part of being in business



“Loyalty” Offer

- **NEW Tax Advice Report – S100A advice to clients**
- **FREE if you:**
 - Existing Member: Renew for 2 years
 - New Member: Sign up for 24 months (usually 12)
 - Applies to “TaxPlan Pro “+ “Core Pro” + “Progress”
- **Additional Tax Advice Reports will be given to you over the next 6 months – Easily invoice \$1,500+ for each advice report!**
 - Restructure from Trust to Company
 - Interposing a Holding Company (protect retained profits)
 - Allocation of Professional Firm Profits

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Special WEB EVENT

Making the 2022 Federal Budget “Client Friendly”

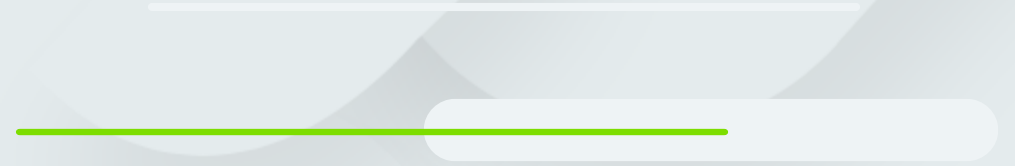
Friday 1 April 2022 1:00pm Syd/Melb



Title for new section

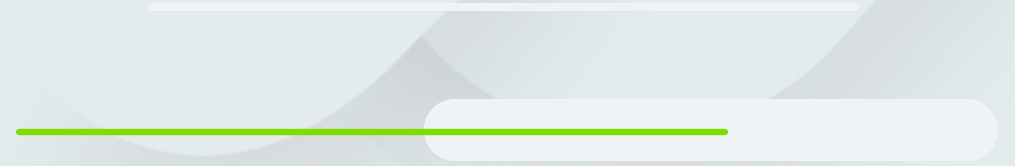
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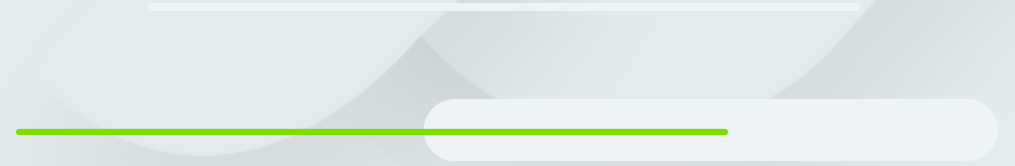
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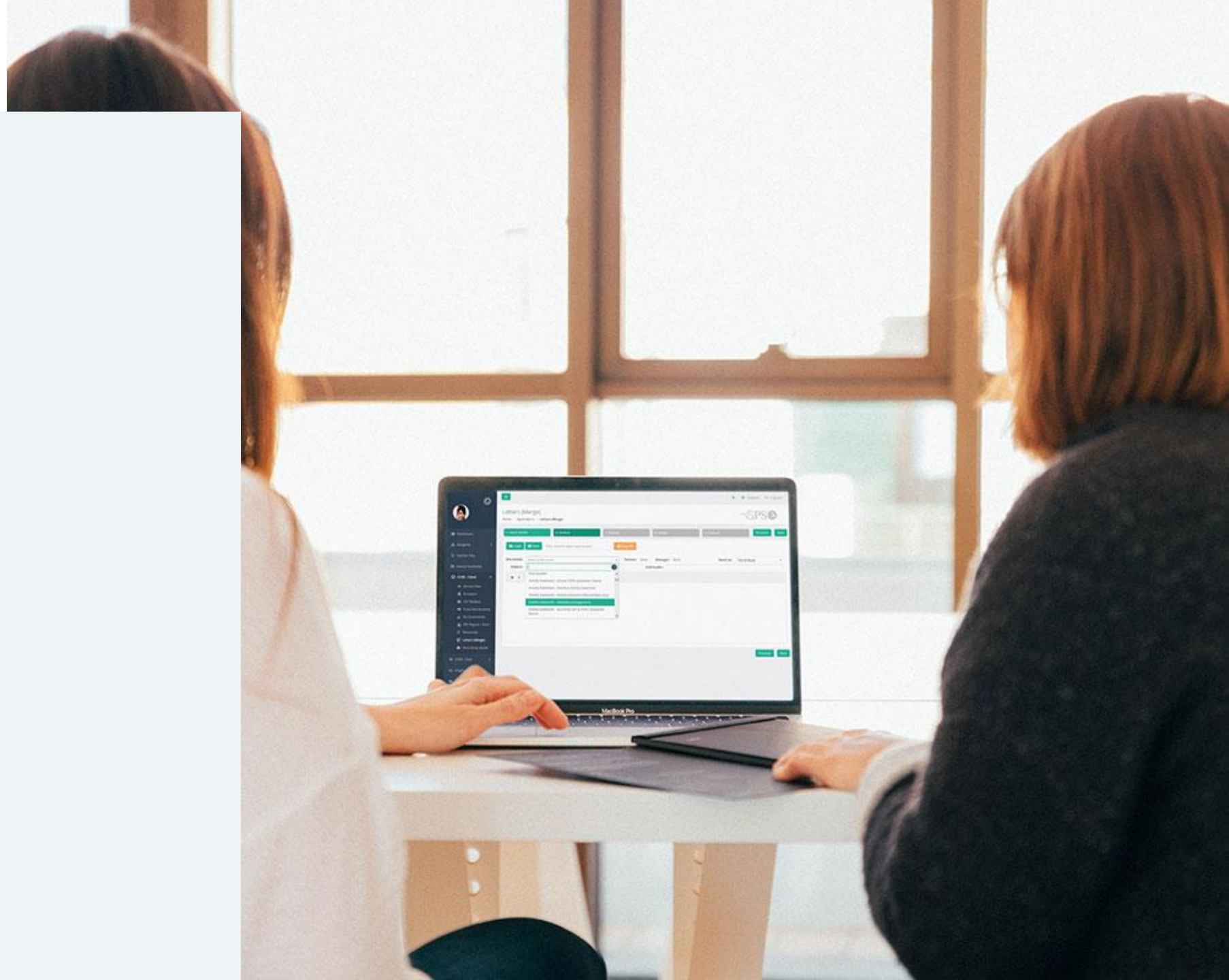
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Book your free consultation

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