DLK ADVISORY

TRUST REPORTING CHANGES FROM 1 JULY 2024

Changes to simplify reporting for trustees and beneficiaries are commencing from 1 July 2024 as a part of the Modernisation of Trust Administration Systems (MTAS) project. From that date, labels in the statement of distribution, which is a part of the trust tax return, will be modified, a new schedule will be introduced for all trust beneficiary types, and new data validations will be added.

Looking at each of these changes in depth, from the 2023-24 income year and onward, four new capital gains tax (CGT) labels have been added into the trust tax return statement of distribution.

These changes will enhance the ability of trustees to appropriately notify beneficiaries of their entitlement to income and support the calculation of the CGT amount in individual tax returns.

The ATO recommends that all beneficiaries obtain copies of the trust statement of distribution as it relates to their individual entitlements. This will allow beneficiaries to include the correct information in the new trust income schedule.

Partnering together to achieve your objectives

The trust income schedule instructions will demonstrate how the information on the tax statement provided should be reported on the trust income schedule. This also includes trust income from a managed fund. It should be noted that beneficiaries will still need to complete existing trust income labels in beneficiary income tax returns as this new trust income schedule will not replace any existing trust income labels.

Individual beneficiaries who lodge via MyTax will receive prompts about the additional reporting of trust income. In addition to these reporting changes, the ATO has reminded trustees that where beneficiaries' entitlements reflected in trust resolutions are subsequently changed by either arguing the resolution as invalid, defective or made at a different time, it should be notified as an affected party where the change triggers tax consequences.

For context, to ensure that beneficiaries are presently entitled to trust income, discretionary trusts are usually required to make a resolution by 30 June of any specific income year. For those specifically entitled to a capital gain, trustees of discretionary trusts must make a resolution in respect of that capital gain by 31 August following the income year in which the capital gain is made.

According to the ATO, high-risk behaviours by trustees can include altering trust resolutions after tax returns are lodged, failing to inform the ATO of errors in trust deeds or their administration, and making decisions that affect the tax liabilities of a trust, such as early vesting, without notifying the ATO. These actions can lead to disputes over entitlements, amended assessments, and the potential for tax fraud or evasion charges if the issues are not promptly and transparently addressed with the ATO.

The ATO notes that it is critical for trustees of trusts to maintain open and honest communication with the ATO, as failure to do so may lead to serious consequences, including the possibility of amended tax assessments for fraud or evasion (which are not limited by the standard four-year review period) and the imposition of significant penalties. The need for trustees to promptly advise the ATO of any mistakes in the trust deed or in the administration of the trust to prevent legal and financial complications cannot be overstated.

CONTACT

If you have any queries, please feel free to contact us.

DLK Advisory Pty Ltd
Level 10, 99 Queen Street, Melbourne VIC 3000

T: +61 3 9923 1222

www.dlkadvisory.com.au