



“The Bottom Line” SIMMONDS LE-FEVRE

Client Newsletter

July 2026

FAMILY TRUSTS

Time to get some timely advice



If you have a family trust there are two recent major (very major) things that have happened that will affect the way they will be taxed in the future.

About this newsletter

Welcome to the **Simmonds Le-Fevre** client information newsletter, your monthly tax and super update keeping you on top of the issues, news and changes you need to know. Should you require further information on any of the topics covered, please contact us via the details below.

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The first is the announcement in the Budget that trust income will now be taxed to the trust at a minimum rate of 30% regardless of how it is ultimately distributed to beneficiaries.

However, under the proposed measures, individual beneficiaries to whom that trust income is later distributed will get a credit for the tax paid by the trust to prevent double taxation. But a credit will not be available where this trust income is distributed to a corporate beneficiary.

These measures are due to start on 1 July 2028 but no doubt will be subject to tremendous scrutiny in the meantime before any final legislation is passed.

Nevertheless, it is never too early to start looking at things and making some plans.

The other major thing that happened that affects family trust was a decision of the High Court in *Bendel's* case. And that decision applies immediately.

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In that case the High Court ruled that where a corporate beneficiary of a trust is made entitled to trust income, but this income is not paid over to them, then the ATO cannot say that this is a taxable dividend paid back to the trust from the company.

Rather, in this case, where the income is “set aside” for the corporate beneficiary and retained by the trust (ie where an “unpaid present entitlement” arises) there will be no income tax consequences for the trust and the ATO cannot claim that a “deemed dividend” has arisen.

However, it seems that this decision is dependent on the corporate beneficiary not calling for this debt owed to it to be paid.

Also, in the light of this case, it may be that you are entitled to an amended assessment and a refund of

tax if the ATO has now wrongly applied these “deemed dividend” rules in the past few years.

It should also be emphasised that the proposed Budget changes to taxing trust income will presumably make distribution of trust income to corporate beneficiaries no longer viable or tax effective (if the Budget measures proceed in their current form).

In any event, regardless of how the Budget reforms for trust income pan out, it is the time to come and speak to us about how your family trust operates so that you can be satisfied that all bases have been covered - and all possible impacts planned for (as far as possible).