

IRAS e-Tax Guide

Income Tax Treatment of Trusts



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Income Tax Treatment of Trusts

1 Aim

- 1.1 This e-Tax guide sets out the income tax treatment of trusts as provided in the Income Tax Act¹ (“ITA”).
- 1.2 This e-Tax guide is relevant to you if you are a trustee of a trust, including a legal personal representative (administrator or executor) of an estate of a deceased.
- 1.3 This e-tax guide will not cover the following types of trusts:
 - (a) Real Estate Investment Trusts (“REITs”)²;
 - (b) Designated Unit Trusts and CPF Approved Unit Trusts³;
 - (c) Approved Unit Trusts⁴;
 - (d) Trust Funds (Foreign Investors)⁵;
 - (e) Foreign Trusts⁶;
 - (f) Philanthropic Purpose Trusts⁷;
 - (g) Prescribed Locally Administered Trusts⁸;
 - (h) Registered Business Trusts⁹.
 - (i) Income of Non-Resident arising from funds managed by fund manager in Singapore¹⁰;
 - (j) Income from funds managed by fund manager in Singapore.¹¹
- 1.4 The ITA has specific provisions that deal with the tax treatment of the above trusts. Thus, the tax treatment of these or any other types of trusts which is specifically provided in the ITA will continue to be governed by the respective provisions in the ITA and is unaffected by the tax treatment set out in this e-tax guide.

2 At a glance

¹ This e-Tax guide replaces the IRAS’s e-Tax guide on “Income Tax Treatment of Trusts” published on 05 Jan 2012.

² More information on REITs can be found in the e-tax guide on “Income Tax Treatment of Real Estate Investment Trusts (Second edition)”

³ Section 35(12) & (12A) of ITA.

⁴ Section 10B of ITA.

⁵ Section 13C of ITA.

⁶ Section 13G of ITA.

⁷ Section 13O of ITA.

⁸ Section 13Q of ITA (introduced in Income Tax (Amendment) Act 2007).

⁹ Section 36B of ITA. For tax purposes, registered business trusts are treated like companies. More information on Registered Business Trusts can be found in the e-tax guide on “Income Tax Treatment of a Trust Registered under the Business Trusts Act 2004”

¹⁰ Section 13CA of ITA.

¹¹ Section 13X of ITA.

- 2.1 Income derived by trusts will be taxed either at the trustee level or in the hands of the beneficiaries if they are resident in Singapore and entitled to the trust income. However, income derived from a trade or business carried on by the trustee is subject to a final tax at the trustee level.
- 2.2 Resident beneficiaries will also be accorded the concessions, exemptions and foreign tax credits as if they had received the trust income directly (sections 13T, 43X and 50B).

3.1 Resident beneficiaries

This refers to beneficiaries of a trust that are resident in Singapore.

3.2 Trustee

An individual or organization which holds and administers properties or assets through a trust, for the benefits of other persons.

3.3 Foreign tax credit

This refers to a credit for the foreign tax paid on foreign income that is allowed as an offset against Singapore tax payable on the same income. The credit to be granted is the lower of the foreign tax paid and Singapore tax payable. Foreign tax credits are granted only to Singapore tax residents.

4 Background

- 4.1 Section 35(11) of the ITA provides that the income of a trust is the statutory income of the trustee and is chargeable to tax on the trustee.
- 4.2 Prior to the Year of Assessment (“YA”) 2008, where a beneficiary is entitled to the trust income or a share of it, the beneficiary may be taxed on the entitlement, and allowed a credit for tax already imposed at the trustee level¹². The Comptroller may also agree not to subject the trustee to tax on the trust income to which the beneficiary is entitled, but to tax the beneficiary on the distribution received (also known as the “tax transparent treatment”).
- 4.3 In addition, distributions received by the beneficiaries of a trust would be treated as not being of the same nature as the underlying trust income. Hence, any concessions, exemptions and foreign tax credits that would have been applicable to the underlying income would not be available to the distributions received by the beneficiaries.

5 Tax Treatment of Trusts

- 5.1 With effect from YA 2008¹³, the following tax treatment will apply to resident beneficiaries who are entitled to the trust income:
- (a) The Comptroller will accord the tax transparency treatment under section 43(2). No tax will be imposed at the trustee level and the beneficiaries are subject to tax on their entitlement to the share of trust income.
 - (b) The beneficiaries will be accorded the concessions, exemptions and foreign tax credits as if they had received the trust income directly (sections 13T, 43X and 50B). In other words, distributions received by such beneficiaries are deemed to have retained the nature of the underlying trust income for the purpose of claiming the concessions, exemptions and foreign tax credits by the beneficiaries.
- 5.2 Whether or not a beneficiary is entitled to the trust income is a question of fact. One would have to examine the trust deed to determine if the beneficiaries of the trust are indeed entitled to the trust income. However, where the trust income is distributed to the beneficiaries within the same year in which the trust income is derived, the Comptroller will treat the beneficiaries as being entitled to income distributed.
- 5.3 The treatment set out in paragraph 5.1 shall not apply to the following:
- (a) Income derived from a trade or business carried on by the trustee (sections 43(2A)(c) and 35(16)(c));
 - (b) Trust income to which the beneficiaries are not entitled; and

¹² Section 46(1)(b)(ii) of ITA (before the changes made in the Income Tax (Amendment) Act 2007).

¹³ The changes relating to trusts were included in the Income Tax (Amendment) Act 2007 which was passed by Parliament on 22 January 2007.

(c) Trust income to which non-resident beneficiaries are entitled.

- 5.4 The trust income in paragraph 5.3 is subject to a final tax at the trustee level. Distributions made out of such income are capital in nature and therefore will not be subject to any further tax in the hands of the beneficiaries.
- 5.5 The combined effect of tax treatments set out in the preceding paragraphs means that there will not be a case where tax is imposed on trust income, once at the trustee level and again at the beneficiaries levels¹⁴.
- 5.6 Where the trust income is subject to a final tax at the trustee level (i.e. scenarios in paragraphs 5.4), the trustee is regarded as a body of persons for tax purposes notwithstanding that the trustee may have legal personality in its own right i.e. it is a company or an individual etc. The tax rate to be levied on a trustee is the prevailing corporate tax rate¹⁵, however, the trustee is not entitled to the partial tax exemption provided under section 43(6)(b) of the ITA.
- 5.7 A table summarising the tax treatment of trusts pursuant to these changes is attached at Annex 1.

6 Contact Information

- 6.1 If you have any enquiries or need clarification on this Guide, please contact:

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Compliance, Clubs, Trusts & Gaming Branch
Inland Revenue Authority of Singapore
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Revenue House
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¹⁴ Prior to the Income Tax (Amendment) Act 2007, section 46(1)(b)(ii) provided for beneficiaries to claim a credit of the tax imposed at the trustee level where the beneficiaries are taxable on the distribution. With effect from YA2008, there will be no scenario where tax is imposed on both the trustee and the beneficiaries. Hence section 46(1)(b)(ii) is no longer relevant and has been repealed in 2013.

¹⁵ Section 43(1)(c)

ANNEX 1 - Summary of Income Tax Treatment of Trusts¹⁶

	Trustee derives trade or business income	Trustee derives income other than trade or business income		
		Beneficiaries are entitled to trust income		Beneficiaries are not entitled to trust income
		Resident beneficiaries	Non-resident beneficiaries	
1. Is tax transparency accorded?	No. [sections 43(2A)(c) and 35(16)(c)]	Tax transparency will be accorded. Tax will not be applied at trustee level.	No	No
2. Is tax at trustee level final?	Yes [section 35(11)]	[section 43(2)]	Yes [section 35(11)]	Yes [section 35(11)]
3. Is trustee treated as a body of persons for purposes of tax and claim for relief, concessions and exemptions?	Yes	NA	Yes	Yes
4. Are distributions received by beneficiaries capital in nature?	Yes	Beneficiaries are entitled to trust income and they will be accorded the concessions, exemptions and foreign tax credits as if they had received the trust income directly. The distributions received by such beneficiaries are deemed to have retained the nature of the underlying trust income (sections 13T, 43X and 50B)	Yes	Yes

¹⁶ For a trust deriving more than one categories of income in the above table, the tax treatment to be accorded will be based on the type of income (trade or non-trade) derived and the residency of the beneficiaries.

