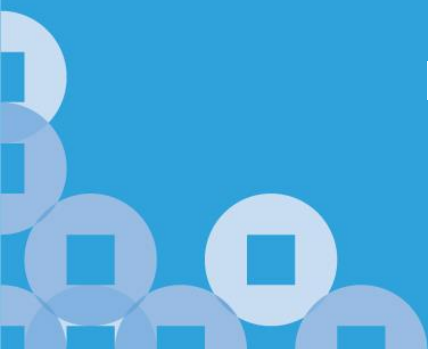




INLAND REVENUE
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IRAS e-Tax Guide

Income Tax Treatment of Trusts (Second Edition)



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Income Tax Treatment of Trusts

1 Aim

- 1.1 This e-Tax guide¹ sets out the income tax treatment of trusts as provided in the Income Tax Act 1947 (“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 income tax treatment for the following:
- (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-residents arising from funds managed by fund manager in Singapore¹⁰; and
 - (j) Income from funds managed by fund manager in Singapore¹¹.
- 1.4 The ITA has specific provisions that deal with the tax treatment of the above trusts. Thus, the tax treatments of these or any other types of trusts which are specifically provided in the ITA will continue to be governed by the respective provisions in the ITA and are unaffected by the tax treatment set out in this e-tax guide.

¹ This e-Tax guide replaces the IRAS’s e-Tax guide on “Income Tax Treatment of Trusts” published on 08 Oct 2014.

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 10A of ITA.

⁵ Section 13C of ITA.

⁶ Section 13F of ITA.

⁷ Section 13L of ITA.

⁸ Section 13N 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 (Third edition)”.

¹⁰ Section 13D of ITA.

¹¹ Section 13U of ITA.

2 At a glance

- 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 13Q, 43M and 50B).
- 2.3 Income arising from trusts or settlements created for beneficiaries that are relatives of the settlor who are unmarried and have not attained 21 years of age, and trusts or settlements that may be revoked for the benefit of the settlor or his/her spouse is deemed to be the income of the settlor and will be taxable on the settlor.

3 Glossary

3.1 Resident beneficiaries

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

3.2 Trustee

An individual or organisation 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.

3.4 Settlor

An individual who sets up a settlement or trust. The settlor is the person who provides the assets to be held under the trust, and names the beneficiaries who are entitled to any income arising from, or assets representing the settlement or trust.

3.5 Settlement

A legal arrangement whereby property is passed to a succession of persons under specified terms.

4 Tax Treatment of Trusts

- 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. The tax imposed is 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.
- 4.2 However, 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 13Q, 43M 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.
- 4.3 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. 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.
- 4.4 The treatment set out in paragraph 4.2 shall not apply to the following:
- (a) Income derived from a trade or business carried on by the trustee on behalf of the trust (sections 43(2A)(c) and 35(16)(c));
 - (b) Trust income to which the beneficiaries are not entitled; and
 - (c) Trust income to which non-resident beneficiaries who are not required to file any income tax returns to the Comptroller of Income Tax, are entitled.
- 4.5 The combined effect of tax treatments set out in the preceding paragraphs means that tax will only be imposed either at the trustee's level or at the beneficiaries' levels.
- 4.6 Where the trust income is subject to a final tax at the trustee level (i.e. scenarios in paragraph 4.4), 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 rate¹²; however, the trustee is not entitled to the partial tax exemption provided under section 43(6) of the ITA.

4.7 A table summarising the tax treatment of trusts is attached at Annex 1.

5 Income Arising from Settlements under Section 31 of the ITA

5.1 Section 31 of the ITA provides for scenarios where the income arising from settlements are deemed as income of the settlors. The settlor must declare the income derived under the settlements in his/her individual income tax return. The scenarios relate to:

- (1) Settlements for relatives of the settlor who are unmarried and have not attained 21 years of age; and
- (2) Settlements that may be revoked for the benefit of the settlor or his/her spouse.

5.2 Settlements for relatives of the settlor who are unmarried and have not attained 21 years of age at the commencement of the year of assessment

5.2.1 Under section 31(1) of the ITA, the income derived from the settlement is deemed to be that of the settlor if all the conditions below are fulfilled:

- (a) The beneficiary is
 - (i) A relative¹³ of the settlor;
 - (ii) Is unmarried at the commencement of the year of assessment (YA); and
 - (iii) Is below 21 years old at the commencement of the YA;
- (b) The settlor is alive; and
- (c) The income or assets of the settlement will or may become payable or applicable to the benefit of the beneficiary.

¹² Section 43(1)(c).

¹³ Under section 31(8), "relative" means any person who is a wife, grandchild, child, brother, sister, uncle, aunt, nephew, niece or cousin of the settlor.

Illustration – section 31(1)

Settlor A creates a settlement in 2022 to hold a property for the benefit of his child B, who is unmarried and is born on 1 Feb 2004. The property is rented out to derive rental income.

Under the terms of the settlement, the rental income derived from the property may be used in the following manner:

- For the education of B;
- For the maintenance and living expenses of B; and
- Any residual amount is to be held on trust till B achieves the age of 21.

Scenario 1: section 31(1) applies

The rental income derived under the settlement in 2022 is deemed as the income of the settlor A in the year of assessment (YA) 2023:

- At the commencement of YA 2023 (i.e. 1 January 2023), B has not attained the age of 21 and is unmarried;
- A is alive; and
- The rental income may be applicable to the benefit of B (i.e. payment for his education and/or living expenses)

Scenario 2: section 31(1) does not apply

If after the creation of the settlement, A passes away, the rental income derived under the settlement in 2022 is assessed in accordance with the tax treatment rules laid out in section 4 above.

5.3 Settlements that may be revoked for the benefit of the settlor or his/her spouse

- 5.3.1 Under section 31(2) of the ITA, the income derived from the settlement is deemed to be that of the settlor so long as the terms of the settlement allow any person to revoke or otherwise determine the settlement, and the exercise of such power will cause the settlor or his/her spouse to become beneficially entitled to any part of the property comprised in the settlement, or any income arising from such property.

Illustration 2 – section 31(2)

Settlor A creates a settlement to hold a property for the benefit of his adult children, C and D. The property is rented out to derive rental income.

Scenario 1 – section 31(2) is applicable

Under the terms of the settlement:

- A or his spouse B may revoke the trust at any time;
- Upon revocation of the trust:
 - The title of the property will be reverted to A;
 - The income earned from the leasing of the property is to be distributed amongst C and D.

The rental income derived under the settlement in 2022 is deemed as the income of the settlor A in the year of assessment (YA) 2023 as:

- Under the terms of the settlement, the trust may be revoked; and
- Upon the revocation of the trust, A is beneficially entitled to the property.

Further explanation:

In a situation where the terms of the settlement provide that the title of the property does not revert to A nor pass to his spouse B, but the income earned from leasing the property is to be distributed to A or his spouse B upon the revocation of the trust, the rental income derived under settlement in 2022 will still be deemed as the income of the settlor A in YA 2023.

Scenario 2 – section 31(2) is not applicable

Under the terms of the settlement:

- A or his spouse B may revoke the trust at any time;
- Upon revocation of the trust:
 - The title of the property will cede to C and D;
 - Any income earned from the leasing of the property is to be distributed amongst C and D.

Section 31(2) is not applicable, as neither the settlor A nor his spouse B is entitled to the property or income of the property when the trust is revoked. The rental income will be assessed in accordance with the tax treatment rules laid out in section 4 above.

6 Contact Information

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

Small Business Division
Compliance and Small Volume Taxes Branch
Inland Revenue Authority of Singapore
55 Newton Road
Revenue House
Singapore 307987

Tel: 6351 3363 /3360

[Email: trust@iras.gov.sg](mailto:trust@iras.gov.sg)

7 Updates and Amendments

	Date of Amendment	Amendments made																		
1	22 June 2023	<p>The previous e-Tax Guide published on 8 Oct 2014 is updated with the following changes:</p> <ul style="list-style-type: none"> • The sections of the ITA referred to within the e-Tax Guide have been renumbered in accordance with the 2020 universal revision of Singapore Acts <table border="1" data-bbox="711 602 1375 983" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th style="text-align: center;">2014 Edition (previous section number)</th> <th style="text-align: center;">2020 Edition (revised section number)</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">S10B</td> <td style="text-align: center;">S10A</td> </tr> <tr> <td style="text-align: center;">S13CA</td> <td style="text-align: center;">S13D</td> </tr> <tr> <td style="text-align: center;">S13G</td> <td style="text-align: center;">S13F</td> </tr> <tr> <td style="text-align: center;">S13O</td> <td style="text-align: center;">S13L</td> </tr> <tr> <td style="text-align: center;">S13Q</td> <td style="text-align: center;">S13N</td> </tr> <tr> <td style="text-align: center;">S13T</td> <td style="text-align: center;">S13Q</td> </tr> <tr> <td style="text-align: center;">S13X</td> <td style="text-align: center;">S13U</td> </tr> <tr> <td style="text-align: center;">43X</td> <td style="text-align: center;">43M</td> </tr> </tbody> </table> <ul style="list-style-type: none"> • The section relating to the tax treatment prior to YA 2008 has been removed • Section 5 - Income Arising from Settlements under Section 31 of the ITA has been added • Other editorial changes to improve readability 	2014 Edition (previous section number)	2020 Edition (revised section number)	S10B	S10A	S13CA	S13D	S13G	S13F	S13O	S13L	S13Q	S13N	S13T	S13Q	S13X	S13U	43X	43M
2014 Edition (previous section number)	2020 Edition (revised section number)																			
S10B	S10A																			
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S13Q	S13N																			
S13T	S13Q																			
S13X	S13U																			
43X	43M																			

ANNEX 1 - Summary of Income Tax Treatment of Trusts¹⁴

	Trust derives trade or business income	Trust 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. [section 43(2)]	No	No
2. Is tax imposed at trustee level final?	Yes [section 35(11)]		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	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 13Q, 43M and 50B]	Yes	Yes

¹⁴ For a trust deriving more than one category 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 tax residency of the beneficiaries.