

## Trust distributions to non-residents

When an Australian trust makes a distribution to a non-resident beneficiary, it is often the case that the Australian trust is required to pay tax on the distribution.



The trustee's payment of tax on trust distributions to non-resident beneficiaries of an Australian trust is a tax collection security measure. It is a type of withholding tax, which is not a final tax in Australia.

When the non-resident beneficiary lodges their Australian tax return, the beneficiary will be refunded some of the tax paid by the Australian trust if the tax paid by the Australian trust exceeds the amount payable by the non-resident beneficiary.

Where an Australian trust makes a distribution to a non-resident trust that, in turn, distributes the amount to a non-resident individual, the non-resident trust is not liable for Australian tax.

Where the Australian trust derives dividends, interest or royalties – and distributes this income to a non-resident beneficiary – the Australian tax law applies a withholding tax to the payments. The rate of withholding depends on the type of income and whether Australia has a double tax agreement with the country to which the amount is being paid.

The payment of the withholding tax by the trustee is a final Australian tax – which means the non-resident beneficiary is not subject to any further Australian tax on the income.

Generally, where an Australian fixed trust makes a capital gain from the disposal of assets that are not directly or indirectly related to real property located in Australia and distributes that gain to a non-resident beneficiary, neither the Australian trust nor the non-resident beneficiary are liable to Australian tax. ■