Family Trust and interposed entity election status

For more information, refer to FTE status and IEE status on the ATO website.

Family trust distribution tax

A consequence of a trust making an interposed entity election or a family trust election is that under section 271-15 or 271-20 of Schedule 2F of the ITAA 1936 a special tax - family distribution tax (FTD) is payable at 47% by the trustee on any conferral of present entitlement to, or distribution of, income or capital of the trust to persons who are not members of the family group of the specified individual within the meaning of section 272-90 of Schedule 2F to the ITAA 1936. For this purpose, a distribution of income or capital by a trust has the meaning given in section 272-45 and 272-60 of Schedule 2F to the ITAA 1936.

The definition of ‘family group’ includes a former spouse, a former widow or widower and a former step-child.

- **Former spouse** - refers to a person who was a spouse of either the primary individual or a member of the primary individual's family before a breakdown in the marriage;
- **Former widow or widower** - is a person who was a widow or widower of either the primary individual or a member of the primary individual's family, and who has a new spouse that is not a member of the primary individual's family; and
- **Former step-child** - is a person who was a step-child of either the primary individual or a member of the primary individual's family, before a break-down in the marriage of the primary individual or the member of the primary individual's family.

Pay FTD tax by post, using a Family trust distribution tax payment slip.

Make cheques or money orders payable to the Deputy Commissioner of Taxation and print 'Not negotiable' across the cheque. Tender all cheques in Australian dollars. Do not send cash by post. Payment addresses can be found on the FTD payment advice on the ATO website.

Interaction between family trust distribution tax and TFN withholding for closely held trust rules

If you are the trustee of a trust that has made a family trust election or an interposed entity election and make a payment or distribution to a beneficiary that is not subject to FTD, you need to consider the TFN withholding rules for closely held trusts.

CCH References

6-266 Family trust elections
6-266 Interposed entity elections
6-267 Income injection test
6-268 Family trust distribution tax