



TFN withholding for closely held trusts

What to withhold from a closely held trust beneficiary's payments or entitlements when they do not quote their TFN.

Last updated 27 January 2021

Withholding from a closely held trust beneficiary's payments or entitlements when they do not quote their TFN.

This information is for trustees and beneficiaries of closely held trusts, including family trusts.

Beneficiaries need to quote their tax file number (TFN) to the trustee to avoid having amounts withheld from their payments or unpaid entitlements.

If a beneficiary quotes their TFN, the trustee must tell us the TFN and other details of the beneficiary.

If a beneficiary doesn't quote their TFN before a payment or entitlement occurs, the trustee must withhold from the payment or entitlement, pay the withheld amount to us, and lodge an annual report with details of all withheld amounts.

Who the rules apply to

Find out who the rules apply to.

What beneficiaries need to do

Find out about what beneficiaries need to do.

What trustees need to do

Withholding from a closely held trust beneficiary's payments or entitlements when they do not quote their TFN.

QC 23140

Who the rules apply to

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The TFN withholding rules apply to most [closely held trusts](#) (including family trusts) and their [beneficiaries](#), with some exclusions.

Closely held trusts

For the purposes of the TFN withholding rules, a closely held trust is a resident trust that either:

- has up to 20 [individuals](#) who, between them – directly or indirectly, and for their own benefit – have fixed entitlements to a 75% or greater share of the income or a 75% or greater share of the capital of the trust (the '20/75 test')
- is a [discretionary trust](#)

However, a trust is not a closely held trust if it's an [excluded trust](#).

Individuals

The following groups of people are taken to be a single individual for the '20/75 test':

- an individual, whether or not they hold fixed entitlements directly in the trust
- the individual's relatives

- other individuals who, in relation to any fixed entitlements, are nominees of the individual or the individual's relatives.

The trustee of a discretionary trust that is also a beneficiary of the trust is taken to be an individual if:

- the trustee holds a fixed entitlement to a share of the income or capital of the trust
- no person holds that fixed entitlement directly or indirectly through the discretionary trust.

Discretionary trusts

A discretionary trust is a trust that is not a fixed trust.

To be a fixed trust, persons must hold fixed entitlements (that is, vested and indefeasible interests) to all of the income and capital of the trust.


A trust where the trustee has discretion to determine how the trust property or income is distributed to beneficiaries would be a discretionary trust.

Excluded trusts

A trust will be an excluded trust if it is:

- a complying super fund, complying approved deposit fund or a pooled super trust at the relevant time
- a trust of a deceased estate (up until the end of the income year in which the fifth anniversary of the individual's death occurs)
- a fixed trust that is a unit trust where all of the beneficiaries are entities exempt from income tax, and have fixed entitlements to all of the income and capital of the trust
- a unit trust whose units are listed on the Australian Securities Exchange.

The Regulations also exclude the following types of trusts from the application of the TFN withholding rules:

- a trust that is a discretionary mutual fund according to the meaning in subsections 5(5) and 5(6) of the [Financial Sector \(Collection of Data\) Act 2001](#) 

- an employee share trust for an employee share scheme (see **subsection 130-85(4) of the Income Tax Assessment Act 1997**)
- a law practice trust, which is a trust regulated by a state or territory law for the regulation of legal practices or legal services.

Affected beneficiaries

The TFN withholding rules apply to most beneficiaries of closely held trusts, regardless of whether they are an individual, company, partnership, trust, or super fund.

Beneficiaries receiving pensions and benefits, including the age pension and disability support pension, are not exempt from these rules. Beneficiaries must quote their TFN to the trustee to avoid having amounts withheld from payments made by the trustee.

The TFN withholding rules do not apply to beneficiaries:

- that are non-residents for tax purposes
- that are exempt entities as defined in the tax laws, such as tax concession charities, deductible gift recipients and other entities that self-assess their status as income tax exempt
- under a legal disability (for example, minors).

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What beneficiaries need to do

Find out about what beneficiaries need to do.

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Decide whether to quote your TFN

It's your decision. You're not required to quote your TFN to the trustee, but if you don't the trustee may be required to withhold the top rate of tax from any payments to you or from any of your unpaid entitlements.

You can **apply for a TFN** if you don't have one.

How to quote your TFN

To quote your TFN to the trustee, you need to provide your:

- TFN
- full name
- date of birth (individual beneficiaries only)
- postal address
- business or residential address
- entity type
- ABN if you have one (non-individual beneficiaries only).

There is no prescribed format for providing this information. You can do it verbally or in writing (including electronically).

Unless your details have changed, the information you provide to the trustee should be the same as the information you provided to us on your most recent tax return. This helps us match your TFN and other personal details to our records, which reduces the likelihood of the trustee being notified that the TFN or other details are incorrect and that they will be required to withhold from future payments and unpaid entitlements.

If the trustee withholds

If the trustee has withheld an amount because you didn't quote your TFN, you should lodge an income tax return showing your share of the trust net income and the amount withheld by the trustee.

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What trustees need to do

Withholding from a closely held trust beneficiary's payments or entitlements when they do not quote their TFN.

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As the trustee of a closely held trust:

- you should advise your beneficiaries that if they haven't quoted their TFN to you before they receive a payment from the trust or become entitled to trust income, you may be required to withhold from that payment or entitlement
- you must lodge an [Annual trustee payment report](#) (it's part of your trust tax return) to report total payments made to, and unpaid entitlements created in, each beneficiary in the income year.

If a beneficiary quotes their TFN, you must:

- store and use their TFN safely (as required by the [Privacy \(Tax File Number\) Rule 2015](#) [↗](#))
- lodge a [TFN report](#) with us by the last day of the month following the end of the quarter in which the TFN was quoted to you.

If beneficiaries have not quoted their TFNs to you before you make a payment or make them entitled to income, you must:

- [confirm that the payment or entitlement is subject to TFN withholding](#)
- [register for PAYG withholding for closely held trusts](#)
- withhold from their payments or entitlements at the top rate of tax, [at the time the payment or entitlement occurs](#), to the extent the payment or entitlement relates to their share of the net income of the trust
- [lodge an Annual TFN withholding report](#) with details of the amounts paid to, and unpaid entitlements created in, beneficiaries and any amounts withheld from those payments and entitlements
- [lodge an annual activity statement with us and pay the withheld amounts](#)
- [provide a payment summary](#) to each beneficiary that had amounts withheld.

There are penalties for failing to:

- withhold when required
- pay an amount withheld by the due date

- lodge reports on time.

Annual trustee payment report

After the end of each income year, you lodge an **Annual trustee payment report** with us. You do this by completing the statement of distribution in your trust tax return.

You must report the total of each beneficiary's distributions and share of the net income of the trust. You must report these amounts even if all beneficiaries have quoted their TFNs and you have no withholding obligations.

See also

- [Annual trustee payment report information \(trust tax return instructions\)](#)
- [Withholding by trustees](#)

TFN report

You must lodge a *TFN report* for any quarter in which a beneficiary quotes their TFN to you. The report is due by the last day of the month following the end of the quarter.

If there are no new TFNs to report for a quarter, you don't need to lodge a report.

You can lodge a *TFN report* using:

- Standard Business Reporting (SBR) enabled software
- the Paper TFN report.

Example: When to lodge a TFN report

Tara is a beneficiary of the Jackson Trust, which is a closely held trust. Tara provides her TFN and other details to the trustee of the Jackson Trust on 4 July. The trustee must lodge a *TFN report* with us disclosing Tara's TFN and other details by 31 October of the same year.

Withholding by trustees

Confirm that withholding applies

Generally, if a beneficiary doesn't quote their TFN before a payment or entitlement occurs you must withhold from the payment or entitlement.

However, you don't withhold if the payment or entitlement:

- is for a beneficiary that is excluded (because the beneficiary is a non-resident, a tax-exempt entity or under a legal disability)
- is for a trustee beneficiary and you're required to make a trustee beneficiary statement under the trustee beneficiary reporting rules
- is subject to family trust distribution tax (because the trust is a family trust and the beneficiary is outside the family group)
- gives rise to a liability for you, as trustee, to pay tax under section 98
- is less than the thresholds set by the regulations – withholding is not required if the payment or entitlement is below \$120 for the whole income year (or, if the payment is for part of the income year, 120 multiplied by the number of days to which the payment applies, divided by 365)
- was subject to the TFN withholding rules in an earlier year – that is, amounts that a beneficiary was presently entitled to but you did not distribute
- relates to an income year before the TFN withholding rules applied.

Unit trusts

You're only required to withhold once when you make a payment that is subject to withholding under the investment rules and the closely held trust rules.

In these circumstances, you're required to withhold under the investment rules in priority to the closely held trust rules.

Register for PAYG withholding for closely held trusts

If you're required to withhold amounts from a beneficiary, you must register for PAYG withholding for closely held trusts purposes.

PAYG withholding registration for employment or other reasons can't be used for closely held trust purposes.

When you no longer need to withhold from your beneficiaries, you can cancel your PAYG withholding for closely held trusts registration.

See also

- **Closely held trusts – adding or cancelling a pay as you go (PAYG) withholding business account**

When to withhold

The obligation to withhold occurs at the time the relevant payment or entitlement occurs.

If you make a payment or create an entitlement before receiving the beneficiary's TFN, you may be liable for failure to withhold penalties without having access to the amount paid to the beneficiary.

Example: Withholding at the end of the income year

The ABC Trust, which is a closely held trust, has three beneficiaries: Jo, Rhonda and Sydney Pty Ltd. The trustee has not made any payments to the beneficiaries during the income year.

At the end of the income year, the trustee of the ABC Trust resolves that each beneficiary is entitled to a share of the trust income. Jo and Rhonda quoted their TFNs to the trustee of the ABC Trust before the end of the income year, but Sydney Pty Ltd did not.

The trustee of the ABC Trust must withhold from Sydney Pty Ltd's share of the net income of the trust.

Any amounts you withhold from distributions you make during the income year will reduce the amount you would otherwise be required to withhold from an entitlement that occurs at the end of the income year for that beneficiary (see the example below).

Example : Withholding during the income year

During the income year, the trustee of the Mahoney Trust, which is a closely held trust, distributes \$200 of ordinary income to each of its beneficiaries – Kate and Tamzin. Neither Kate nor Tamzin has quoted their TFN to the trustee, so the trustee is required to withhold from their payments.

At the end of the income year, the trustee of the Mahoney Trust works out:

- the trust's income for the year was \$1,000 and its net income was also \$1,000
- that each beneficiary is entitled to a \$500 share of the trust income.

At the end of the income year Kate and Tamzin have still not quoted their TFN to the trustee. The trustee must withhold from each beneficiary's share of net income but the amount can be reduced by the amount already withheld during the year on the \$200 distribution.

For each beneficiary, the trustee can subtract the \$200 distribution from their total share of the net income of the trust (\$500), and withhold from the balance.

The trustee must withhold for each beneficiary as follows:

- \$500 (total share) – \$200 (on which an amount was already withheld) = \$300
- the trustee must withhold on the further \$300 for each beneficiary.

Annual TFN withholding report

If you've withheld amounts from beneficiaries you must lodge an *Annual TFN withholding report* with us after the end of the income year.

The report must include, for each beneficiary, the totals of all:

- payments and entitlements subject to withholding
- withheld amounts.

If you were not required to withhold any amounts from beneficiaries during the income year you don't need to lodge a report for that year.

Your report is due three months after the end of your income year (for most trusts this is 30 September), unless we have given you more time to lodge.

You can lodge your *Annual TFN withholding report* using:

- Standard Business Reporting (SBR) enabled software
- the paper *Annual TFN withholding report*.

Pay withheld amounts to us

You must lodge an annual activity statement and pay any withheld amounts to us.

For most trustees the payment and activity statement are due by 28 October (that is, 28 days after the *Annual TFN withholding report* is due to be lodged).

Remember, if you have a withholding obligation you must register for PAYG withholding for closely held trust purposes. Once registered, you'll be required to lodge an annual activity statement and pay any amounts withheld.

Example: Making a withholding report and payment to us

At the end of the income year, the trustee of the Popper Trust, which is a closely held trust, has a withholding obligation because two of the beneficiaries:

- are each presently entitled to a \$1,000 share of the trust's income, which is also their share of the trust's net income
- have not provided their TFNs.

To meet this obligation, the trustee withholds 47% (from 1 July 2017) from each beneficiary's share of the net income of \$1,000 – that is, \$470 each ($\$1,000 \times 0.47$).

The Popper Trust *Annual TFN withholding report* is due on 30 September. However the trustee lodges the report early on 28 July. Despite the early lodgment of the report, the Popper Trust still has until 28 October to lodge its activity statement and

pay us the \$980 it withheld from the beneficiaries' shares of the net income of the trust.

Issue payment summaries

You must give an annual payment summary to each beneficiary from whom an amount has been withheld.

You must do this no more than 14 days after the due date for lodgment of the *Annual TFN withholding report*. So for most trustees the due date is 14 October, unless we've given you additional time.

The payment summary may be in electronic form. You don't need to send the payment summary to us.

A payment summary must contain the:

- full name of the trustee
- full name of the trust
- ABN or withholding payer number (WPN) of the trustee
- address of the trustee
- name of the beneficiary
- total of the withholding payments that it covers
- total of the amounts withheld from the payments
- income year of the trust that the payment summary is for.

In some instances, the total of the withholding payments required in the payment summary may be different from the actual distribution the beneficiary has received. In these circumstances, you should also provide the beneficiary with details of their share of the trust's net income that they need to include in their tax return.

See also

- Electronic payment summaries

Our commitment to you

We are committed to providing you with accurate, consistent and clear information to help you understand your rights and entitlements and meet your obligations.

If you follow our information and it turns out to be incorrect, or it is misleading and you make a mistake as a result, we will take that into account when determining what action, if any, we should take.

Some of the information on this website applies to a specific financial year. This is clearly marked. Make sure you have the information for the right year before making decisions based on that information.

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