


IT 2049W - Notice of Withdrawal - Income tax liability of trustee in respect of distributions to non-resident beneficiaries

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Notice of Withdrawal

Taxation Ruling

Income tax liability of trustee in respect of distributions to non-resident beneficiaries

Taxation Ruling IT 2049 is withdrawn with effect from today.

1. IT 2049 (issued on 6 July 1983) describes the operation of the former provisions of Division 6 of Part III of the *Income Tax Assessment Act 1936* (ITAA 1936) that facilitated the collection of tax payable by non-resident beneficiaries on trust income. It deals with former subsections 98(3) and 98(4) and section 98A which made a trustee liable to pay tax where a non-resident company or individual was presently entitled to a share of trust's net income and allowed a corresponding credit to the beneficiary for the tax paid by the trustee.
2. IT 2049 provides information about these provisions which at the time were newly enacted. However, it does not contain interpretive advice about how the law applies.
3. Subsections 98(3) and 98(4) were repealed and rewritten by *Tax Laws Amendment (2007 Measures No. 3) Act 2007* with effect from 21 June 2007, applicable in relation to income years starting on or after 1 July 2006. The rewritten provisions largely restate the effect of the old law whilst broadening its scope to also make a trustee liable to pay tax in respect of non-resident trustee beneficiaries.
4. The Commissioner's view about the operation of the rewritten provisions is now set out in a fact sheet titled 'Taxation of trust net income – non resident beneficiaries' (available on the Australian Taxation Office web site www.ato.gov.au). This fact sheet supersedes the general information provided about the former provisions in IT 2049.
5. Accordingly, IT 2049 is withdrawn.

Commissioner of Taxation

23 November 2011

ATO references

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