


TD 92/159 - Income tax: is a beneficiary under a legal disability (for example under 18 or mentally incapacitated) required to lodge a return where a distribution from one trust (other than a corporate or public trading trust) is the beneficiary's only source of income?

 This cover sheet is provided for information only. It does not form part of *TD 92/159 - Income tax: is a beneficiary under a legal disability (for example under 18 or mentally incapacitated) required to lodge a return where a distribution from one trust (other than a corporate or public trading trust) is the beneficiary's only source of income?*

This Determination, to the extent that it is capable of being a 'public ruling' in terms of Part IVAAA of the *Taxation Administration Act 1953*, is a public ruling for the purposes of that Part. Taxation Ruling TR 92/1 explains when a Determination is a public ruling and how it is binding on the Commissioner. Unless otherwise stated, the Determination applies to transactions entered into both before and after its date of issue.

Taxation Determination

Income tax: is a beneficiary under a legal disability (for example under 18 or mentally incapacitated) required to lodge a return where a distribution from one trust (other than a corporate or public trading trust) is the beneficiary's only source of income?

1 No. Subsection 100(1) of the *Income Tax Assessment Act 1936* only requires the inclusion of the trust income in the beneficiary's assessable income where the beneficiary also derives a distribution from another trust estate or derives income from another source.

2 The beneficiary is not required to declare the trust income and therefore the lodgment of the beneficiary's individual return is not necessary.

3 The trustee is liable for the tax assessed on the beneficiary's share of the net trust estate income under subsection 98(1).

Note: The distribution is also not included as assessable income under paragraph 26(b) because the trustee is assessed and liable to pay tax in pursuance of section 98.

Example:

An under 18 beneficiary's only source of income is a single trust distribution of \$10000. The beneficiary is not required to lodge a return.

Commissioner of Taxation

17/09/92