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MACBITES - ATO ATTACKING TRUST DISTRIBUTIONS



There has been an important development that will affect the taxation of distributions being made by discretionary trusts (including family trusts).

On 23 February 2022, the Tax Office released a number of documents that outlined a new and very aggressive approach to the taxation of trusts, particularly where trust distributions have not been paid to a beneficiary. At this stage the Taxation Ruling is in draft mode.

Under these guidelines, the Tax Office have threatened to effectively reverse certain valid trust distributions and tax these amounts to the trustee of the trust at 47% (as though this income was not distributed to any beneficiary).

These new guidelines may affect trust distributions for the current income year. However, the Tax Office have indicated these guidelines may be applied retrospectively.

Importantly, we believe that trust distributions from your trust(s) were made in accordance with the guidelines that were made available by the Tax Office at the time.

Nonetheless, these new guidelines are a concern because they reflect a direct attack on many common trust arrangements, which may result in your circumstances being considered a higher risk from an audit perspective. We advise that we will need to consider the above developments in light of your trusts and undertake a risk-assessment of trust distributions made in prior years. We may need to reconsider our tax planning strategies for your group as the new guidelines may change the way you wish to distribute trust income.

Should you wish to know more at this point please contact us and we will be happy to explain what these new rules are and what they will mean for your family group. Alternatively in due course once we have reviewed your situation more carefully we will further advise on the issues of concern.

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