

**BUSINESS**

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FUNDS

INSTRUCTIONS

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**Australian Government**  
**Australian Taxation Office**

# Fund income tax and regulatory return instructions 2006

To help you complete the fund income tax and regulatory return  
for 1 July 2005 – 30 June 2006



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We make every effort to ensure that our advice and information is correct. If you follow advice in this publication and it turns out to be incorrect, or it is misleading and you make a mistake as a result, we must still apply the law correctly. If that means you owe us money, we must ask you to pay it. However, we will not charge you a penalty or interest if you acted reasonably and in good faith.

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If correcting the mistake means we owe you money, we will pay it to you. We will also pay you any interest you are entitled to.

If you feel this publication does not fully cover your circumstances, please seek help from the Tax Office or a professional adviser.

### **The information in this publication is current at May 2006.**

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## **ABOUT THESE INSTRUCTIONS**

The *Fund income tax and regulatory return instructions 2006* will help you complete the *Fund income tax and regulatory return 2006*.

The instructions cover, among other things:

- the schedules you must complete and attach to the fund income tax and regulatory return, and
- record-keeping requirements.

When we refer to 'you' in these instructions, we are referring either to you as the trustee of the fund or to you as the tax agent or trustee responsible for completing the schedule.

This publication is not a guide to income tax or superannuation law. Please get help from the Tax Office or a recognised tax adviser if you feel this publication does not fully cover your circumstances.

## **PUBLICATIONS AND SERVICES**

To find out how to get a publication referred to in these instructions and for information about our other services, see the inside back cover.



# INTRODUCTION

## WHAT'S NEW

### ■ Choice of superannuation fund

Choice of superannuation fund commenced on 1 July 2005 and gave certain employees the opportunity to choose which superannuation fund will receive their compulsory superannuation guarantee employer contributions. Further changes to superannuation laws from 1 July 2006 will enable additional employees to make this choice.

Please take the time to visit our website

[www.superchoice.gov.au](http://www.superchoice.gov.au) or to phone our Super Choice Infoline (see the inside back cover) to find out more about choice and your role as trustee.

### ■ Entrepreneurs tax offset

Recent legislation provides for a new tax offset called the entrepreneurs tax offset. If the fund received a distribution from a partnership or trust that was a Simplified Tax System (STS) taxpayer for the income year, it may be eligible to claim the entrepreneurs tax offset. See the new labels at item **12 – Entrepreneurs tax offset** for more information.

### ■ Film licensed investment company deductions

On 4 October 2004, the government announced a programme to provide assistance to the Australian film production industry. This program is in addition to the assistance currently available to the industry through Division 10BA of the *Income Tax Assessment Act 1936* (ITAA 1936).

Under Subdivision 375-H of the *Income Tax Assessment Act 1997* (ITAA 1997), eligible taxpayers are able to claim the payment for shares, in the income year in which the shares are fully paid and issued, from a company which has been granted a license (to raise concessional capital) under the *Film Licensed Investment Company Act 2005*. Deductions are only currently available for the income years ending 30 June 2006 and 30 June 2007.

### ■ Simplified superannuation rules

On 9 May 2006, the Treasurer announced major reform to the superannuation system and released 'A Plan to Simplify and Streamline Superannuation'. Included within this proposal is a cap of \$150,000 a year on the amount of post-tax superannuation contributions a person can make. If this proposal is adopted, this restriction would apply from Budget night, 9 May 2006. In addition, the Government will consider whether the cap should be averaged over three years to allow people to accommodate larger one off payments. Trustees should be aware of this proposal when accepting contributions from members of the fund. Further details on the Government's proposal can be obtained at <http://simplersuper.treasury.gov.au> or by contacting Treasury on **1800 012 238**.

# SCHEDULES

- Complete only **one** copy of the appropriate schedule.
- Attach all completed schedules to the *Fund income tax and regulatory return 2006* (fund return) unless specified otherwise.
- Fund returns lodged without all the required schedules may not be considered to have been lodged in the approved form. Unless all schedules are lodged by the due date failure to lodge on time penalty may be applied.

## CAPITAL ALLOWANCES SCHEDULE

Complete and attach a *Capital allowances schedule 2006* (NAT 3224-6.2006) if you show an amount of more than:

- \$15,000 at **W Deduction for decline in value of depreciating assets** item **9b**, or
- \$75,000 at either **A Intangible depreciating assets first deducted** item **11**, or **U Other depreciating assets first deducted** item **11**.

For more information see the *Capital allowances schedule instructions 2006* (NAT 4089-6.2006).

Worksheets 1 and 2 in the *Guide to depreciating assets 2006* (NAT 1996-6.2006) will help you to complete the *Capital allowances schedule 2006*. **G, H, I, J** and **K** on worksheet 1 and **L, M, N, O, P** and **Q** on worksheet 2 correspond to labels on the capital allowances schedule.

## CAPITAL GAINS TAX (CGT) SCHEDULE

All funds that have one or more CGT events happen during the income year must complete a *Capital gains tax (CGT) schedule 2006* (NAT 3423-6.2006 CGT schedule) and attach it to the fund return if:

- the total current year capital gains for the income year are greater than \$10,000, or
- the total current year capital losses for the income year are greater than \$10,000.

The *Guide to capital gains tax 2006* (NAT 4151-6.2006) will help you meet your fund's CGT obligations by outlining the essential steps involved in calculating your fund's net capital gain for the income year. The guide also includes:

- aspects of CGT law that may apply to the fund – for example, record-keeping requirements
- a capital gain or capital loss worksheet for calculating a capital gain or capital loss for each CGT event
- a CGT summary worksheet for calculating the fund's net capital gain or net capital loss for the income year
- the CGT schedule.

## LOSSES SCHEDULE

The *Losses schedule 2006* (NAT 3425-6.2006) and, where relevant, the CGT schedule, have replaced most of the labels relating to losses in previous fund returns. Transfer totals of the amounts at part A of the *Losses schedule 2006* to **U** and **V** item **10** on the fund return.

Complete and attach a *Losses schedule 2006* if:

- the total of the fund's tax losses and net capital losses carried forward to the 2006–07 income year is greater than \$100,000
- the fund is claiming a deduction for foreign source losses
- the fund has 'current year' foreign source losses
- the fund has carried forward foreign source losses to later income years
- the fund is claiming a deduction for prior year controlled foreign companies (CFC) losses
- the fund has 'current year' CFC losses, or
- the fund has carried forward CFC losses to later income years.

For more information, see the *Losses schedule instructions 2006* (NAT 4088–6.2006).

If, under the above criteria, you need to complete a *Losses schedule 2006*, you may also need to complete a CGT schedule. For more information, see the *Guide to capital gains tax 2006*.

## NON-INDIVIDUAL PAYG PAYMENT SUMMARY SCHEDULE

Pay as you go (PAYG) withholding applies to several withholding events including:

- the payment is for a supply and the payee does not quote an Australian business number (ABN)
- payments made under a PAYG voluntary agreement, and
- payments made under foreign resident withholding.

If the payer withheld an amount from a payment because the fund did not quote their ABN, the payer should have given the fund (payee) a *PAYG Payment summary – withholding where ABN not quoted* (NAT 3283).

If an amount from a payment to the fund was withheld by the payer because of the operation of foreign resident withholding, the fund should have received a *Payment summary – foreign resident withholding* from the payer.

A payer may issue a receipt, remittance advice or similar document in place of the approved form, provided the document contains the information required by the approved form.

## PAYG PAYMENT SUMMARY – WITHHOLDING WHERE ABN NOT QUOTED

If the fund did not receive or has lost its copy of a payment summary, contact the payer responsible and request a signed photocopy of the payer's copy.

Details from any *PAYG Payment summary – withholding where ABN not quoted* must be included on a *Non-individual PAYG payment summary schedule 2006* (NAT 3422).

Complete a *Non-individual PAYG payment summary schedule 2006* where amounts are reported at:

- **L** **Gross payments where ABN not quoted** item **9a** on the fund return
- **M** **Credit for tax withheld where ABN/TFN not quoted** item **8** on the fund return.

Print neatly in block letters with a black pen only. Show the fund's tax file number (TFN) and name in the appropriate boxes at the top.

From each *PAYG Payment summary – withholding where ABN not quoted*, record on the *Non-individual PAYG payment summary schedule 2006*:

- payer's ABN (or withholding payer number)
- total tax withheld
- gross payment, and
- payer's name.

When you have entered details of all these payment summaries on the schedule, attach the *Non-individual PAYG payment summary schedule 2006* to the fund return.

Do not attach copies of any *PAYG Payment summary – withholding where ABN not quoted* to the fund return – keep them with the fund's copy of the return.

Also keep a copy of the *Non-individual PAYG payment summary schedule 2006* with the fund's tax records.

## PAYMENT SUMMARY – FOREIGN RESIDENT WITHHOLDING

Details from any *Payment summary – foreign resident withholding* must be included on a *Non-individual PAYG payment summary schedule 2006*.

Complete a *Non-individual PAYG payment summary schedule 2006* where amounts are reported at:

- **O** **Gross Payment subject to foreign resident withholding** item **9a** on the fund return
- **E** **Credit for tax withheld – foreign resident withholding** item **8** on the fund return (except where the amount is from partnership or trust distributions).

When you have entered details of all these payment summaries on the schedule, attach the *Non-individual PAYG payment summary schedule 2006* to the fund return.

**NOTE:** A *Non-individual PAYG payment summary schedule 2006* is not required for income subject to foreign resident withholding received in a distribution from a partnership or trust because these distributions do not have an associated payment summary.

Do not attach copies of any *PAYG Payment summary – foreign resident withholding* to the fund return – keep them with the fund's copy of the return.

Also keep a copy of the *Non-individual PAYG payment summary schedule 2006* with the fund's tax records.



## THIN CAPITALISATION SCHEDULE

If you are subject to the thin capitalisation rules – see appendix 5 – you will need to use the *Guide to thin capitalisation* (NAT 4461) available on our website. You may then need to complete the *Thin capitalisation schedule 2006* (NAT 6458–6.2006) available through our electronic lodgment service (ELS). Alternatively, complete a paper version of the schedule and post it to:

**Australian Taxation Office**  
**PO Box 1365**  
**ALBURY NSW 2640**

Do NOT attach your completed schedule to the fund return.

## GENERAL INFORMATION

### INTERNATIONAL TAXATION – CHANGES TO THE TAXATION TREATMENT OF CERTAIN TRUSTS, MANAGED FUNDS AND OTHER MEASURES

The *New International Tax Arrangements (Managed Funds and Other Measures) Act 2005* became law on 21 March 2005. The Act makes amendments to the operation of capital gains tax and treaty source rules in respect of certain interests held by foreign residents in Australian trusts.

The *New International Tax Arrangements (Foreign-owned Branches and Other Measures) Act 2005* became law on 26 June 2005. The Act covers a number of measures such as dividends received by Australian branches of foreign entities, cross-border employee shares or rights. Certain measures in the Act have application from the date of Royal Assent (various application dates are specified in the legislation).

Further information about both these measures may be found on our website.

### DIVIDENDS, INTEREST AND ROYALTIES

Where a superannuation fund is not a resident of Australia it may be liable for Australian withholding tax on certain dividends, interest and royalties paid by Australian residents or the Australian business of a non-resident. For the purposes of the dividend, interest and royalty withholding tax provisions, the trustee of a superannuation fund is a non-resident if the superannuation fund is not a resident: subsection 128A(10) of ITAA 1936. In some circumstances, foreign superannuation funds are exempt from Australian income tax and withholding tax on dividend, and interest income derived in Australia; subsection 23(jb) and subsection 128B(3)(a) of ITAA 1936. However, other non-resident superannuation funds are subject to withholding tax in Australia on the dividend and interest income they derive, in the same way as other non-resident taxpayers.

### ELECTION TO BECOME A REGULATED FUND

A trustee must elect to become 'regulated' under the *Superannuation Industry (Supervision) Act 1993* (SISA) if the fund wishes to receive concessional taxation treatment. The trustees of a new fund must, within 60 days after establishment of the fund, give the Tax Office a notice of election to be a regulated superannuation fund.

The trustee completes an *Application for ABN registration for superannuation entities* (NAT 2944). You can register online at [www.abr.gov.au](http://www.abr.gov.au) or, for a paper copy of the application, phone the Superannuation Infoline on **13 10 20**.

Once a trustee has elected to become regulated you cannot reverse the decision – the fund would have to be wound up to cease to be regulated under SISA and the Superannuation Industry (Supervision) Regulations 1994 (SISR).

## NOTE

When referring to both SISA and SISR, the abbreviation used is SIS.

### CHANGING TRUSTEES OR SWITCHING REGULATORS

All superannuation funds are required to inform the Tax Office within 21 days when they switch regulators, or appoint or remove trustees. Funds are required to complete a *Change of details for Superannuation entities* (NAT 3036) to advise the Tax Office of these changes. The Tax Office will inform the Australian Prudential Regulation Authority (APRA) of any relevant changes to funds they regulate. The *Fund income tax and regulatory return* cannot be used for this purpose.

### CHANGES AFFECTING THE MAKING OF FAMILY TRUST AND INTERPOSED ENTITY ELECTIONS

Changes have been made to the rules regarding the making of family trust and interposed entity elections. Generally, the changes will allow entities to make family trust and interposed entity elections at any time in relation to earlier years provided certain conditions are met. The key points are:

- To elect an earlier income year, entities must have, from the beginning of the specified income year until 30 June of the income year preceding the year in which they made an election:
  - 1 passed the family control test, and
  - 2 during that period, made all conferrals of present entitlement or of actual distributions of income or capital, to the individual specified in the election or to members of that individual's family group.
- The changes apply to family trust and interposed entity elections specifying the 2005 or a later year of income.
- The changes do not apply to family trust and interposed entity elections specifying the 2004 or earlier income years.
- If the above conditions are met an entity can make a family trust and/or interposed entity election with the entity's income tax return or at any time during the year.

For more information, phone the Business Infoline on **13 28 66** or the Tax Agents Infoline on **13 72 86**.

### FOREIGN EXCHANGE (FOREX) GAINS AND LOSSES

Under the forex measures, foreign exchange gains and losses are generally brought to account as assessable income or allowable deductions, when realised. The measures cover both foreign currency denominated arrangements and broadly, arrangements to be cash-settled in Australian currency with reference to a currency exchange rate. Some foreign exchange gains and losses of a private or domestic nature, or in relation to exempt income or non-assessable non-exempt income, are not brought to account under the forex measures.

If a foreign exchange gain or loss is brought to account under the forex measures and under another provision of the tax law, it is assessable or deductible only under the forex measures.

In general, foreign exchange gains and losses will not be assessable or deductible under these measures if they arise from certain acquisitions or disposals of capital assets, or acquisitions of depreciating assets, and the time between the acquisition or disposal and payment is no more than 12 months. Instead, any foreign exchange gain or loss is usually matched with or integrated into the tax treatment of the underlying asset.

The general translation rule requires all tax relevant amounts to be expressed in Australian currency regardless of whether there is an actual conversion of that foreign currency into Australian dollars.

For most superannuation funds, the forex measures and general translation rule have applied from 1 July 2003. However, funds with certain early substituted accounting periods were not subject to these provisions until the first day of their 2004–05 income year.

The tax consequences of gains or losses on existing foreign currency assets, rights and obligations that were acquired or assumed before the commencement date are generally to be determined under the law as it was before these measures came into effect, unless:

- the fund has made a transitional election that brings these gains and losses within the new forex measures, or
- there is an extension of an existing loan (for example, an extension by new contract or a variation to an existing contract) that brings the arrangement within these measures.

More information about these measures and on how to calculate your foreign exchange realisation gains and losses is available on our website (search for 'forex').

### FOREIGN SUPERANNUATION – INTEREST WITHHOLDING TAX

Currently, entities that qualify as a foreign superannuation fund are exempt from Australian income tax and are generally exempt from withholding tax on dividend and interest income derived in Australia. They are subject to withholding tax on royalty income they derive in Australia.

Non-resident superannuation funds that do not qualify as foreign superannuation funds are subject to withholding tax in Australia on dividend, interest and royalty income they derive in Australia.

To qualify as a foreign superannuation fund, a fund must be established outside Australia for the sole purpose of providing superannuation benefits for non-residents. The fund must also continue to be managed and controlled outside Australia by persons who are non-residents.

Parliament has passed legislation that changes the interest withholding tax (IWT) for certain debentures issued on or after 23 June 2004 and debt interests issued on or after 21 March 2005. Broadly, certain debentures and debt

interests issued by (the trustees of) eligible unit trusts are now exempt from interest withholding tax (new section 128FA of ITAA 1936).

## GENERAL VALUE SHIFTING REGIME

The general value shifting regime (GVSR) replaces the value shifting rules in Divisions 138, 139 and 140 of ITAA 1997. Subject to transitional rules, the GVSR applies from 1 July 2002.

Broadly, value shifting describes transactions and other arrangements that reduce the value of an asset and (usually) increase the value of another asset.

The GVSR consists of direct value shifting (DVS) and indirect value shifting (IVS) rules that primarily affect equity and loans interests in companies and trusts. There is also a DVS rule dealing with non-depreciating assets over which a right has been created. There are different consequences for particular interests according to whether the interest is held on capital account or as a revenue asset or as trading stock.

Where the rules apply to a value shift there may be a deemed gain (but not a loss) adjustment to adjustable values (such as cost bases) or adjustments to losses or gains on realisation of assets.

There are *de minimus* exceptions and exclusions which will minimise the cost of complying with the GVSR, particularly for small business. Entities dealing at arm's length or on market value terms are generally excluded from the GVSR.

For more information, visit our website or phone the Tax Reform Infoline on **13 24 78**.

## DEBT EQUITY RULES

The debt equity measures broadly operate to characterise certain interests as either debt or equity. These measures will generally apply from 1 July 2001. For some tax law purposes, equity interests are treated in the same way as shares even though they are not shares in legal form. These interests are called 'non-share equity interests'. They include some income securities and some stapled securities. The *Guide to the debt and equity tests*, available on our website, provides an overview of the debt and equity rules and explains what a non-share equity interest is.

For the purposes of the imputation system, generally non-share equity interests are treated in the same way as shares. Non-share dividends on these types of interests may be franked or unfranked. Show any amount of non-share dividend, whether franked or unfranked, or any amount of franking credit attached to the non-share dividend, at the appropriate place on the fund return as if it were for a share.

## TRANS-TASMAN IMPUTATION

The trans-Tasman imputation measure allows New Zealand resident companies to choose to enter the Australian imputation system. Doing so allows a company to maintain an Australian franking account from 1 April 2003 and to

attach Australian franking credits to dividends it pays from 1 October 2003 or one month after the company makes an election, whichever is later. Australian shareholders of these companies may benefit from the Australian franking credits attached to distributions the companies make (such a company is referred to as a 'New Zealand franking company').

If the fund is an Australian shareholder of a New Zealand franking company and received franked dividends with Australian franking credits attached directly or indirectly from a New Zealand franking company, see **I Gross foreign income** and **N Australian franking credits from a New Zealand company** item **9a** for instructions that will assist in completing the fund return for the year.

For more information, visit the trans-Tasman imputation page on our website or phone the Tax Reform Infoline on **13 24 78**.

## FOREIGN RESIDENT WITHHOLDING

Subdivision 12-FB 'Payments to foreign residents' was inserted into the pay as you go (PAYG) withholding provisions in Schedule 1 of the *Taxation Administration Act 1953* (TAA 1953). This subdivision inserted two withholding events for payments made to foreign residents. Only payments prescribed in the Taxation Administration Regulations 1976 are subject to this withholding measure.

Payers are required to withhold at the relevant rate prescribed in the appropriate regulation. The Tax Office may grant a variation to the rate of withholding in special circumstances.

### NOTE

- Existing withholding events continue to apply – for example, a foreign resident employee would continue to have an amount withheld under the existing withholding provisions.
- The existing PAYG machinery will apply to these new withholding obligations.
- This withholding is not a final tax. These new withholding requirements will not affect existing income tax obligations for foreign residents deriving assessable income in Australia, such as the requirement to lodge a tax return. Any amounts withheld will be available as a credit against the income tax assessment.
- Gross regulated income subject to foreign resident withholding will not be taken into account in determining the fund's instalment income.

For more information, visit our website or phone the Business Infoline on **13 28 66**.

## FUNCTIONAL CURRENCY RULES

The *New Business Tax System (Taxation of Financial Arrangements) Act (No. 1) 2003* introduced new measures for the taxation of foreign currency gains and losses contained in Division 775 of ITAA 1997, the conversion rules contained in Subdivision 960-C and the functional

currency measure contained in Subdivision 960-D. For more information, see the *Guide to functional currency rules*, the fact sheets *Forex – the general translation rule* and *Forex – general information on average rates*, available on our website.

## **PENALTY FOR FAILURE TO LODGE YOUR ACTIVITY STATEMENT**

Even if you cannot pay the full amount by the due date, you are still required to notify the Tax Office of the PAYG amount deducted from employees. If you do not do so, you are liable to a penalty for failing to lodge your statement. The General Interest Charge will apply to any amounts not paid by the due date.

## **REPORT ON ASPECTS OF INCOME TAX SELF ASSESSMENT**

*Tax Laws Amendment (Improvements to Self Assessment) Act (No. 1) 2005* was enacted on 29 June 2005. This law is intended to provide greater protection and certainty for funds in relation to interest charges and penalties. In particular it:

- introduced a separate interest charge that has a lower rate than the general interest charge for shortfalls of income tax
- improves the transparency of the Tax Office's administrative processes of imposing penalties on taxpayers who understate a tax liability, and
- abolished the separate penalty for failing to follow a Tax Office private ruling.

### **Shortfall interest charge**

For the 2000–01 to 2003–04 income years where a fund's income tax assessment is amended to increase liability the increase is treated as a late payment. The shortfall under the amended assessment is due on the same due date as the original (understated) assessment and general interest charge applies from that date. For the 2004–05 and later income years where an assessment is amended the due date for payment of the shortfall is 21 days after the Commissioner gives the notice increasing the liability. The fund is liable to pay a shortfall interest charge from the due date of the original assessment to the day before the issue date of the amended notice of assessment calculated on the increase in tax payable. The fund will be notified of the amount of the shortfall interest charge and it will be due 21 days after the notice is given. General interest charge will apply automatically to any unpaid amount of the amended assessment and the shortfall interest charge once the due date has passed.

The shortfall interest charge replaces the general interest charge during the shortfall period. It is calculated at a rate four percent lower than the general interest charge.

The Commissioner may remit all or a part of the shortfall interest charge when it is fair and reasonable to do so. For further information on remission of the shortfall interest charge please refer to the Tax Office's website at [www.ato.gov.au](http://www.ato.gov.au)

## **Penalties**

In addition to interest charges, penalties may be applied to any tax shortfall.

For the 2004–05 and later income years the penalty for a tax shortfall for failing to follow a private ruling has been abolished. However if a private ruling is obtained but not followed penalties may still apply for any tax shortfall which arises where, for example, reasonable care has not been exercised or where there is no reasonably arguable position.

The Commissioner must now provide an explanation in writing of why an entity is liable for a penalty and, where remission of a penalty has been considered but not fully granted, reasons why the penalty has not been remitted.

The new law also makes clear that when considering whether a penalty should be imposed, the Tax Office will consider a taxpayer's position to be 'reasonably arguable' if it would be concluded in the circumstances that what is argued is about as *likely* to be correct as incorrect, or is *more likely* to be correct than incorrect.

Further information is available on our website or by phoning the Business Infoline. (See the inside back cover.)

## **RESIDENCY STATUS**

A fund is a complying fund only if it is a resident fund, as defined below, throughout the income year.

A fund is taxed as a resident if it was a resident at any time during the income year.

A superannuation fund is a resident fund at a particular time if:

- either the fund was established in Australia or any asset of the fund is situated in Australia, and
- the central management and control of the fund is in Australia – if the individuals acting as trustees or the directors of the trustee company are temporarily overseas, the period overseas must not exceed two years – and
- in respect of a fund that has at least one active member, the total of accumulated entitlements of resident active members at the relevant time is 50% or more of the total accumulated entitlements of all active members. (An active member is someone who has made contributions to the fund, or someone for whom contributions to the fund have been made in the year of income.)

A member is excluded from being an active member at the relevant time if at that time:

- they are not a resident of Australia
- they are not a contributor, and
- the only contributions that have been made on their behalf since they ceased being a resident related to a time when they were a resident.

An approved deposit fund (ADF) is a resident ADF at a particular time if:

- either the fund was established in Australia or any asset of the fund is situated in Australia

- the central management and control of the fund is in Australia, and
- the accumulated entitlements of resident members is 50% or more of the total assets of the fund.

## SELF-DETERMINATION OF FOREIGN TAX CREDITS

If a fund has paid foreign tax and wishes to claim a credit for the foreign tax paid, calculate the amount of any such credit allowed and show it at the appropriate label on the fund return. For more information on the calculation of foreign tax credits, see the *Foreign income return form guide* (NAT 1840) and *How to claim a foreign tax credit 2006* (NAT 2338–6.2006).

For help with the calculation, or advice about whether the credit is allowed, phone the Personal Tax Infoline on **13 28 61**.

## SELF-MANAGED SUPERANNUATION FUND

The Tax Office regulates funds that satisfy the definition of a self-managed superannuation fund (SMSF) under SISA.

An SMSF must lodge both its SISA and annual tax return details with us by using the *Fund income tax and regulatory return 2006*.

If a fund decides to switch from being regulated by the Tax Office to APRA, the fund may be required to lodge regulatory details for that year with both the Tax Office and APRA. The fund is required to complete the regulatory portion of the fund return for the period the fund was regulated by us and, where the switch is to APRA, lodge a separate regulatory annual return with APRA for the period it was regulated by APRA. See the note after **Annual levy** on page 9 for more information.

If the fund has switched regulators during the income year, trustees of SMSFs must pay the annual \$45 superannuation supervisory levy to the Tax Office, and small APRA funds (SAFs) must pay a separate lodgment levy to APRA.

## NON SELF-MANAGED SUPERANNUATION FUND

Funds which have not been an SMSF at any time during the year must use the *Fund income tax and regulatory return 2006* to lodge their tax return, but do not complete items **25** to **34**.

## CHOICE OF SUPERANNUATION FUND

Choice of superannuation fund commenced on 1 July 2005 and gave certain employees the opportunity to choose which superannuation fund will receive their compulsory superannuation guarantee employer contributions. Further changes to superannuation laws from 1 July 2006 will enable additional employees to make this choice.

If you are a trustee of an SMSF set up as a result of choice, you need to be aware of your responsibilities and statutory obligations. Please take the time to visit our website

[www.superchoice.gov.au](http://www.superchoice.gov.au) or to phone our Super Choice Infoline (see the inside back cover) to find out more about choice and your role as trustee.

## RECORD-KEEPING REQUIREMENTS

### Record keeping and retention

Generally, a fund must keep all relevant records for five years after those records were prepared or obtained, or five years after the completion of the transactions or acts to which those records relate, whichever is the later, although this period may be extended in certain circumstances. Keep records in writing and in English; however, you can keep them in an electronic form or on microfiche as long as the records are in a form that we can access and understand to ascertain the fund's taxation liability – see *Taxation Ruling TR 96/7 Record keeping – section 262-A – general principles* and *Taxation Ruling TR 2005/9 Record keeping – electronic records*.

The fund is not expected to duplicate records. If the records that the fund normally keeps contain the information specified in the instructions, you do not need to prepare additional records.

For some items on the fund return, these instructions refer to specific record-keeping requirements. In general, the records specified cover instances where the required information may not be available in the normal fund accounts. The record-keeping requirements within the instructions indicate the information that the fund uses to calculate the correct amounts to declare on the fund return but this information is not an exhaustive list of the records that a fund maintains.

Prepare and keep these documents:

- a statement of financial position
- a detailed operating statement
- a statement of cash flow (reporting entities only)
- notices and elections
- documents containing particulars of any estimate, determination or calculation made while preparing the fund return, together with details of the basis and method used in arriving at the amounts on the fund return
- a statement describing and listing the accounting systems and records – for example, a chart of accounts that are kept manually and electronically.

If the Tax Office conducts an audit, we may ask for the following information, and we expect the fund to make the information readily available:

- a list and description of the main financial products – for example, bank overdrafts, bills, futures and swaps – that were used by the fund to finance or manage its activities during the income year
- for funds that have entered into transactions with associated entities overseas:
  - an organisational chart of the group structure, and
  - all documents, including worksheets, that explain the nature and terms of the transactions entered into.

## NOTE

Regulated funds are prohibited from borrowing money except in certain limited circumstances – trustees should read the fact sheet *Self managed superannuation funds – investment strategy and investment restrictions* (NAT 2063), available on our website for a more detailed explanation

The fund will be liable to pay penalties and interest, in addition to the shortfall amount if it does not state the correct amount of taxable income and tax payable on that income, or overclaims a credit entitlement on the fund return. The law also imposes a penalty where a fund fails to keep records in the required manner or it fails to retain records for the appropriate period.

Under SIS, SMSF trustees are required to:

- prepare minutes of trustee meetings and decisions – where matters affecting the fund were discussed
- prepare records of all changes of trustees
- keep copies of members' written consent to be appointed as trustees
- keep copies of all annual income tax and regulatory returns lodged
- keep copies of all reports given to members, and
- keep records relating to the management of the fund as required by SISA for 10 years following the end of the income year to which they relate.

### Capital gains tax record keeping

For more information on record keeping for capital gains tax, see the *Guide to capital gains tax 2006*.

### Tax losses record keeping

If a fund incurs tax losses, the fund may need to keep records longer than five years from the date when the losses were incurred.

Generally you can carry forward tax losses incurred this year indefinitely, until they are applied by recoupment. When applied, the loss amount is a figure that leads to the calculation of the fund's taxable income in that year.

It is in the fund's interest to keep records substantiating this year's losses until the amendment period for the assessment in which the losses are applied has lapsed (in most cases up to four years from the date of that assessment).

### e-Record

*e-Record* is an electronic record-keeping package we have developed to help small and micro businesses and non-profit organisations keep good business records.

It is designed for businesses that use a cash basis of accounting and who wish to make the transition from paper-based products to an electronic record-keeping package. It is not designed for those businesses that are already using a commercially available accounting software package.

*e-Record* consists of a set of simple-to-use electronic worksheets that produce daily and weekly information as well as monthly, quarterly and annual summaries, and has the added benefit of automatic calculations and consolidations. It will help businesses complete their activity statements.

You can download the latest versions of *e-Record* from our website at [www.ato.gov.au/erecord](http://www.ato.gov.au/erecord) or get a copy of the CD-ROM by phoning **1300 139 051**.

### Record keeping for overseas transactions and interests

Keep records of any overseas transactions in which the fund is involved, or has an interest in, during the income year.

The involvement can be direct or indirect – for example, through persons, trusts, companies or other entities. The interest can be vested or contingent, and includes a case where the fund has direct or indirect control of:

- any income from sources outside Australia not disclosed elsewhere on the fund return, or
- any property – including money – situated outside Australia. If this is the case, keep a record of the following:
  - the location and nature of the property
  - the name and address of any partnership, trust, business, company, or other entity in which the fund has an interest, and
  - the nature of the interest.

If an overseas interest was created by exercising any power of appointment, or if the fund had an ability to control or achieve control of overseas income or property, keep a record of the following:

- the location and nature of the property, and
- the name and address of any partnership, trust, business, company, or other entity in which the fund has an interest.

### FUND INCOME TAX AND REGULATORY RETURN

#### First fund return

Funds lodging their first fund return should have completed an *Application for ABN registration for superannuation entities* (NAT 2944) to:

- get a tax file number (TFN)
- get an Australian business number (ABN), and
- make an election to become a regulated fund.

If the fund has completed an application but has not received notification at the time of lodging the fund return, include a copy of the relevant application with the fund return. If that is not possible, complete a new application and lodge this with the fund return.

If the fund has not applied for a TFN, ABN or made an election, attach the appropriate completed application with the fund return.

## NOTE

When registering, the trustee of the fund applies for and receives the ABN 'as trustee for the fund'.

A fund return lodged without an ABN or, in the case of funds established before 1 November 1999, without a TFN may be delayed in processing.

### Lodging the fund return, schedules and other documents

The *Thin capitalisation schedule 2006* is available through our electronic lodgment service (ELS). Alternatively, complete a paper version of the schedule and post it to:

**Australian Taxation Office**  
**PO Box 1365**  
**ALBURY NSW 2640**

SMSFs must complete the regulatory information at items **25** to **34** on the fund return.

Keep records so the information reported on the fund return can be verified at a later date, if required – see **Record-keeping requirements** on page 7.

The address for lodging the fund return is on page 52.

Do **not** attach a payment to the fund return. Payment options are on page 52.

The following are the only schedules that are sent with the fund return:

- *Capital gains tax (CGT) schedule 2006*
- *Capital allowances schedule 2006*
- *Family trust election and/or family trust revocation 2006*
- *Interposed entity election 2006*
- *Losses schedule 2006*
- *Non-individual PAYG payment summary schedule 2006*
- *Schedule 25A 2006*, and
- any elections required by *Taxation Ruling IT 2624 – Company self assessment; elections and other notifications; additional (penalty) tax; false or misleading statement*.

Do **not** send other schedules or documents with the fund return. Keep these with the fund's tax records.

Details of the information to be provided in the schedules and the date for their lodgment is notified in a Legislative Instrument registered on the Federal Register of Legislative Instruments.

The due dates and acceptable method for lodging superannuation fund returns and statements are set out in the legislative instrument which is registered on the Federal Register of Legislative Instruments. This can be viewed at **[www.frii.gov.au](http://www.frii.gov.au)**

Fund returns lodged without all the required schedules may not be considered to have been lodged in the approved form. Unless all schedules are lodged by the due date, failure to lodge on time penalty may be applied.

## ANNUAL LEVY

Funds meeting the definition of SMSFs must pay an annual levy (\$45) to the Tax Office for the lodgment of regulatory information. We send payment advices to the fund's registered address for service.

## NOTE

If a fund switches from the Tax Office to APRA during the year, it is required to lodge an annual regulatory return with both APRA and the Tax Office for the period the fund was regulated by each regulator and pay a lodgment levy to both regulators. However, funds switching from APRA to the Tax Office are not required to lodge a regulatory return with APRA in the year the fund switches. A levy is not payable to APRA as a levy has already been paid for the year the switch occurs. For more information, visit the APRA website at **[www.apra.gov.au/Superannuation](http://www.apra.gov.au/Superannuation)** or phone APRA on **1300 131 060**.

## ASSESSMENT

Assessments of superannuation funds and pooled superannuation trusts (PSTs) are deemed to be made on the day on which the fund return is lodged.

## OBJECTION TO SELF-ASSESSMENT

If a trustee wishes to object to the calculation of taxable income calculated according to a Tax Office ruling or policy that is unfavourable to the fund, they may dispute the application of a ruling or policy by lodging an objection to the self-assessment generally within four years of the deemed assessment date. The objection must state the full particulars of the issue in dispute.

## APPLICATION TO THE COMMISSIONER FOR A PRIVATE RULING

A private ruling is a written expression of opinion by the Commissioner of Taxation about the way in which a section or provision of the income tax law would apply to a person in relation to an arrangement in respect of a specified income year.

An application for a private ruling must be in writing and in accordance with the provisions of Part IVA of TAA 1953. The information that accompanies a private ruling request must be sufficient for the Commissioner to make the private ruling. Such information will include the parties involved, the facts, income years covered by the arrangement, issues and questions raised that relate to specified tax laws, and an analysis of and opinion on such questions.

The Commissioner may request additional information.

The Commissioner will then consider the request and issue, or in certain limited circumstances refuse to issue, a private ruling.

The trustee may apply for a ruling affecting a member's income tax affairs with the written consent of the member.

## Review rights

Trustees can object to adverse private rulings in much the same way as they can object against assessments. They also can seek a review of adverse objection decisions on a private ruling by the Administrative Appeals Tribunal (AAT) or a court. An explanation of review rights and how to exercise them is issued with the private ruling. An objection to a ruling can be lodged within the later of:

- 60 days after receipt of the ruling
- four years from the last day allowed for lodging a fund return for the income year covered by the ruling.

A trustee cannot object to a private ruling if an assessment has occurred covering the same facts and issues; they can object against the assessment.

If a trustee has objected to a private ruling, they cannot object on the same grounds against a later assessment, unless the facts have changed.

Private rulings dealing with ITAA 1936 continue to apply to ITAA 1997, to the extent that the old law to which the ruling applies expresses the same ideas as the new law in ITAA 1997.

## Withdrawals

The Commissioner cannot withdraw a private ruling if the year of income for the ruling has started or ended. If the year of income has not started but the arrangement has started, the Commissioner can only withdraw a private ruling in very limited circumstances. If the arrangement has not started then generally the Commissioner can withdraw a private ruling.

## PAYMENT ARRANGEMENTS

### Paying your tax debt

Income tax debts must be paid by the due date. For payment options, see page 52.

The rate used to calculate the GIC, which is levied on outstanding amounts due to the Tax Office, is calculated by adding 7% to the 90-day bank accepted bill rate. The GIC rate is updated quarterly. Any GIC is payable from the due date for payment. Amounts payable under the original assessment are due on the statutory due date for payment which is the first day of the sixth month of the following year of income. For example, for 30 June balancing funds the statutory due date is the following 1 December.

For more information on the GIC, phone the Business Infoline on **13 28 66**.

## What if the fund cannot pay the tax debt by the due date?

To avoid action being taken to recover the debt, phone the Account Management Infoline on **13 11 42**. You are expected to organise the fund's affairs to ensure that you pay the debts on time. Nevertheless, we may allow you to pay the debts under a mutually agreed payment plan if you face genuine difficulty in paying your debt on time but have the capacity to eventually pay the debt. The GIC will continue to accrue on any outstanding amounts of tax during any payment arrangement. Approval to do this will not be given automatically. You may need to provide details of the fund's financial position, including a statement of its assets and liabilities and details of the fund's income and expenditure. We will also want to know what steps you have taken to obtain funds to pay the tax debt and the steps you are taking to meet future tax debts on time.

## PENALTIES AND INTEREST CHARGES

The law imposes penalties on funds for:

- failing to lodge a tax return on time and in the approved form
- having a tax shortfall or over-claiming a credit that is caused by:
  - making a false or misleading statement
  - taking a position that is not reasonably arguable
- refusing to provide a tax return from which the Commissioner can determine a liability
- failing to keep and produce proper records
- preventing access to premises and documents, or
- failing to retain or produce declarations.

A fund is liable for the GIC where:

- tax remains unpaid after the due date for payment, or
- a variation of a PAYG instalment rate or amount is less than 85% of the amount or rate which would have covered the fund's actual liability for the year.

A fund is liable for shortfall interest charge where:

- the fund's income tax assessment is amended increasing their liability. Generally the shortfall interest charge accrues on the shortfall amount from the due date of the original assessment until the day before the assessment is amended.



# COMPLETING THE FUND INCOME TAX AND REGULATORY RETURN

Print neatly in BLOCK LETTERS, using a black or blue pen.

If typing or using a laser printer, you can type over the boxes using UPPERCASE only.

The fund return has not been designed to be completed using a typewriter.

You may photocopy the fund return for the fund's own records. However, send only the original to us.

## TAX FILE NUMBER (TFN)

Print the TFN of the fund in the boxes provided on pages 1 and 3 of the fund return.

If the fund has not been allocated a TFN, see **First fund return** on page 8.

## NAME OF FUND OR TRUST

Show the fund name exactly as it appears on the fund's trust deed or other constituent document.

For subsequent fund returns, the fund name should be consistent from year to year unless the name changes.

If the fund name is legally changed, you must advise us of the change by completing the *Change of details for superannuation entities* (NAT 3036) at the time the change is made. Show on the fund return the current (legal) fund name.

## AUSTRALIAN BUSINESS NUMBER (ABN)

The ABN is a single, unique business identifier which will ultimately be used for all dealings with the Australian Government. It is also available to state, territory and local government regulatory bodies. Identification for taxation law purposes is only one of the objects of the ABN.

Print the ABN of the fund in the boxes provided – if applicable.

Funds in existence before 1 November 1999 may obtain an ABN by lodging the *Application for ABN registration for superannuation entities* (NAT 2944) with the Tax Office.

Follow the instructions on the fund return for the following items:

- Previous name of the fund or trust
- Current postal address
- Postal address on previous tax return.

**NOTE:** C/- is the only acceptable format for 'Care of'.

## EMAIL ADDRESS

We may use this address to send information or educational material direct to the nominated contact for the fund.

## NAME OF TRUSTEE AND ABN

Show the full name of either the individual or company that is trustee, whichever applies. Where there is more than one trustee, show only one name.

Print the ABN of the individual or company in the boxes provided.

## HOURS TAKEN TO PREPARE AND COMPLETE THIS TAX RETURN

We are committed to reducing the costs involved in complying with the fund's taxation and regulatory obligations. By completing **J** the trustee will help us to monitor these costs as closely as possible. The trustee's response to this item is voluntary.

When completing this item consider the time, rounded up to the nearest hour, that you spent:

- reading the fund return instructions
- collecting the necessary information to complete this fund return
- making any necessary calculations
- actually completing this fund return or putting the tax affairs of the fund in order so the information can be handed to the fund's tax agent.

Include the time both the trustee and tax agent spent in preparing and completing the fund return. This includes the time spent by any other person whose assistance was obtained in doing this – such as an employee.

If you are a tax agent preparing this fund return on behalf of your client, include your time and a reliable estimate of their time.

## BUSINESS POSTCODE

Show the postcode of the place where most of the business decisions of the fund or trust are made.

## WAS THE FUND OR TRUST WOUND UP DURING THE YEAR?

Print **Y** for yes at **K** if the fund or trust has been wound up, and all assets of the fund or trust have been distributed.

Print **N** for no at **K** if the fund or trust is continuing or is in the process of winding up but still retains assets.

Funds or trusts which have transferred their liability for tax on contributions under section 275 of ITAA 1936, and have not wound up, should print **N** in the box at **K**.

## DATE WOUND UP

Show at **L** the date the fund or trust ceased operations.

Each superannuation entity is required to lodge an annual fund return for each year of its operations, up to the date it is wound up.

## 1 SUPERANNUATION FUND NUMBER

Show at **A** the superannuation fund number. Up to 1 November 1999, APRA provided all funds seeking to be regulated for the purposes of SISA with a superannuation fund number (SFN).

From 1 November 1999 only funds regulated by APRA are issued with an SFN.

## 2 DATE OF ESTABLISHMENT OF FUND OR TRUST

Show at **B** the date of establishment of the fund or trust. For funds other than those established under state or Commonwealth statutes, a fund is established after the trust deed is signed and property has been set apart for the benefit of identified members. Under common legal practice, a trust deed is signed and executed on the same day. For funds established by state or Commonwealth statute, provide the date on which the first contribution was made.

## 3 STATUS OF FUND OR TRUST

Print **X** in the applicable boxes to show whether the fund is a:

<b>C1</b>	resident, or
<b>C2</b>	non-resident

and a:

<b>D1</b>	superannuation fund
<b>D2</b>	approved deposit fund (ADF), or
<b>D3</b>	pooled superannuation trust (PST).

For more information on the residency status of a fund, see page 6.

## Membership industry classification

Superannuation funds lodging a fund return must complete **E1**.

ADFs and PSTs do not complete **E1**.

Write at **E1** the code from **table 1** that best describes the industry in which most members of the fund are employed or were employed.

**TABLE 1**

Code	Membership industry classification
01	Primary production
02	Mining
03	Manufacturing
04	Building and construction
05	Electricity, gas and water
06	Transport, storage and communications
07	Wholesale and retail trade

08	Finance, insurance, real estate and business services
09	Health, education, welfare and community services
10	Entertainment, recreation, hotels, personal service and restaurants
11	Government

## 4 TYPE OF FUND OR TRUST

### NOTE

To find out if the fund needs to be regulated to obtain a complying fund status under SISA, see **6 Compliance status** on page 15.

Print **X** in the applicable box that best describes the type of fund or trust at balance date. Mark only one box. To assist in determining the type of fund or trust at balance date, see **table 2**.

**TABLE 2**

Label	Categories of funds or trusts
<b>H1</b>	SMSFs – a regulated fund administered by the Tax Office that has four or fewer members.
<b>H2</b>	Small APRA fund – a regulated fund administered by APRA that has fewer than five members. This category includes those employer-sponsored or corporate funds that have four or fewer members.
<b>H3</b>	Public offer fund or retail fund – a regulated fund consisting of pooled superannuation sold commercially through intermediaries such as life companies, bank subsidiaries, or financial planners. This category includes master trusts and personal superannuation products
<b>H4</b>	Industry or award fund – a regulated fund maintained to accept superannuation contributions from unrelated employers in a particular industry.
<b>H5</b>	Employer sponsored or corporate fund – a regulated fund sponsored by a single non-government employer or a group of related employers, excluding industry funds.
<b>H6</b>	Public sector fund – a regulated fund established by or under a law of the Commonwealth or a state or territory or a municipal corporation, another local governing body or public authority constituted by or under a law of the Commonwealth or a state or territory.
<b>H7</b>	Non-regulated fund – a fund that does not satisfy the provisions of section 19 of SISA.
<b>H8</b>	Other – another type of regulated fund not included in the descriptions above.

## 5 FAMILY TRUST/INTERPOSED ENTITY ELECTION STATUS

This item must be completed if any of the following apply.

The trustees of the funds or trusts:

- have previously made a family trust election specifying an income year from 1994–95 to 2004–05 in accordance with section 272-80 of Schedule 2F to ITAA 1936 and, if applicable, item **22** or **22A** of Schedule 1 to the *Taxation Laws Amendment (Trust Loss and Other Deductions) Act 1998 (Trust Loss Act 1998)* and, in accordance with subsections 272-80(6) to (8), that election has not been revoked in an income year before the 2005–06 income year
- are making a family trust election specifying the 2005–06 income year in accordance with section 272-80 of Schedule 2F to ITAA 1936
- have previously made one or more interposed entity elections specifying a day in any income year from 1994–95 to 2004–05 income year in accordance with section 272-85 of Schedule 2F to ITAA 1936 and, if applicable, item **23** or **23A** of Schedule 1 to the *Trust Loss Act 1998*
- are making one or more interposed entity elections specifying a day in the 2005–06 income year in accordance with section 272-85 of Schedule 2F to ITAA 1936
- are revoking from a time in the 2005–06 income year, a previously made family trust election in accordance with subsections 272-80(6) to (8) of Schedule 2F to ITAA 1936.

### NOTE

Election forms for family trust and interposed entity elections made specifying an income year before the 2004–05 income year must not be attached to the 2006 fund return. Under sections 272-80 and 272-85 of Schedule 2F to ITAA 1936, a trustee cannot make a family trust election or an interposed entity election specifying a year earlier than the 2004–05 year on the 2006 fund return.

A family trust election can only be revoked by a trust which was a fixed trust at the beginning of the specified income year and which satisfies all of the conditions in subsections 272-80(6) to (8) of Schedule 2F to ITAA 1936.

If the trustees have previously made a family trust election or one or more interposed entity elections specifying an income year before the 2005–06 income year, print the appropriate election status code at **11** unless the trustees are making one or more interposed entity elections specifying a day in the 2005–06 income year. See **Election status codes** in the next column.

If the trustees have previously made a family trust election or one or more interposed entity elections specifying an income year before the 2004–05 income year and took advantage of the one-off opportunity in *Law Administration Practice Statement PS LA 2004/1 (GA) Lodgment opportunity for family trust and interposed entity elections* to specify an earlier year, print the appropriate election

status code for the earliest year at **11**, unless the trustees are making one or more interposed elections specifying a day in the 2004–05 or the 2005–06 income year.

### NOTE

You do not need to attach to the fund return a *Family trust election and/or family trust revocation 2006* or an *Interposed entity election 2006* for these elections **unless revoking a family trust election**. A family trust election or interposed entity election can be made at any time provided certain conditions are met.

If the trustees are making a family trust election or one or more interposed entity elections specifying the 2005–06 income year, print the appropriate election status codes at **11** and complete a *Family trust election and/or family trust revocation 2006* (if applicable) specifying the 2005–06 income year and an *Interposed entity election 2006* (if applicable) for each interposed entity election specifying a day in the 2005–06 income year.

Instructions on how to complete the *Family trust election and/or family trust revocation 2006* and the *Interposed entity election 2006* are provided with the approved forms.

If the fund return is not lodged electronically using ELS, send the fund return with the attachments as follows:

**Australian Taxation Office**  
**GPO Box X2229**  
**PERTH WA 6847**

## Election status codes

### Family trust election

Print at **11** the code from **table 3** below for the income year, which has been specified in the family trust election. If the trustees of the fund or trust have not made or are not making a family trust election, do not choose a code from **table 3**.

**TABLE 3**

Code	Income year specified in family trust election
<b>A</b>	1994–95
<b>B</b>	1995–96
<b>C</b>	1996–97
<b>D</b>	1997–98
<b>E</b>	1998–99
<b>F</b>	1999–2000
<b>G</b>	2000–01
<b>H</b>	2001–02
<b>V</b>	2002–03
<b>W</b>	2003–04
<b>X</b>	2004–05
<b>Y</b>	2005–06

### Interposed entity election

Print at **1** the code from **table 4** for the income year, which has been specified in the interposed entity election.

Choose the code for:

- the income year which has been specified in the interposed entity election made by the trustees (if only one interposed entity election is made) or
- the earliest income year which has been specified in all of the interposed entity elections made by the trustees (if more than one interposed entity election is or has been made) or
- the 2005–06 income year code if an interposed entity election is being made specifying a day in the 2005–06 income year.

If the trustees of the fund or trust have not made or are not making any interposed entity elections, do not choose a code from **table 4**.

**TABLE 4**

Code	Income year specified in first interposed entity election
I	1994–95
J	1995–96
K	1996–97
L	1997–98
M	1998–99
N	1999–2000
O	2000–01
P	2001–02
Q	2002–03
S	2003–04
T	2004–05
U	2005–06

### Revocation

Print code **R** at **1** if the family trust election made by the fund or trust is being revoked from a time in the 2005–06 income year in accordance with subsections 272-80(6) to (8) of Schedule 2F to ITAA 1936.

### EXAMPLE 1

The trustee of a fund has previously made a family trust election specifying the 1994–95 income year in accordance with section 272-80 of Schedule 2F to ITAA 1936 and item **22** of Schedule 1 to the *Trust Loss Act 1998*, and an interposed entity election specifying a day in the 1994–95 income year in accordance with section 272-85 of Schedule 2F to ITAA 1936 and item **23** of Schedule 1 to the *Trust Loss Act 1998*.

The trustee prints code **AI** at **1**. The trustee does not need to complete a *Family trust election and/or family trust revocation 2006* or an *Interposed entity election 2006*.

### EXAMPLE 2

The trustee of a fund previously made a family trust election specifying the 1996–97 income year in accordance with section 272-80 of Schedule 2F to ITAA 1936 and item **22** or **22A** of Schedule 1 to the *Trust Loss Act 1998* (whichever is applicable) and an interposed entity election specifying a day in the 1997–98 income year in accordance with section 272-85 of Schedule 2F to ITAA 1936 and item **23** or **23A** of Schedule 1 to the *Trust Loss Act 1998* (whichever is applicable). The trustee wants to make another interposed entity election specifying a day in the 2005–06 income year in accordance with section 272-85 of Schedule 2F to ITAA 1936.

The trustee prints code **CU** at **1**. The trustee provides details in an interposed entity election specifying a day in the 2005–06 income year.

### EXAMPLE 3

The trustee has not previously made a family trust election specifying an income year before the 2005–06 income year or an interposed entity election specifying a day in an income year before the 2005–06 income year, but the trustee wants to make a family trust election specifying the 2005–06 income year and an interposed entity election specifying a day in the 2005–06 income year in accordance with sections 272-80 and 272-85 of Schedule 2F to ITAA 1936, respectively.

The trustee prints code **YU** at **1**. The trustee provides details in a *Family trust election and/or family trust revocation 2006* specifying the 2005–06 income year, as well as an *Interposed entity election 2006* specifying a day in the 2005–06 income year.

### EXAMPLE 4

The trustee previously made a family trust election specifying the 1995–96 income year in accordance with section 272-80 of Schedule 2F to ITAA 1936 and item **22** of Schedule 1 to the *Trust Loss Act* and is revoking the family trust election from a day in the 2005–06 income year in accordance with subsections 272-80(6) to (8) of Schedule 2F to ITAA 1936. The trustee has not made any interposed entity elections.

The trustee prints code **BR** at **1**. The trustee completes the *Family trust election and/or family trust revocation 2006*.

### EXAMPLE 5

The trustee previously made a family trust election which specified a day in the 2000–01 income year. The trustee took advantage of the one-off opportunity in Law Administration Practice Statement PS LA 2004/1 (GA) by lodging a declaration requesting that the election apply from the 1995–96 income year.

The trustee prints code **B** (the code for the earlier year) at **1**. The trustee does not need to complete a *Family trust election and/or family trust revocation 2006* or attach it to the fund return.

## 6 IS THE FUND OR TRUST COMPLYING IN ACCORDANCE WITH SECTION 45, 47 OR 48 OF THE SUPERANNUATION INDUSTRY (SUPERVISION) ACT 1993?

Compliance status from APRA or the Tax Office under SISA is restricted to resident entities. Definitions of resident and non-resident superannuation funds are included in ITAA 1936 and residency tests for ADFs in SISA. For more information on residency, see **Residency status** on page 6.

Print **Y** for yes at **F** if the fund:

- elected to become regulated under SISA
- was a resident fund at all times during the income year when the fund was in existence
- received or expects to receive a notice of compliance for the current income year, or
- received a notice of compliance in relation to a previous income year and has not received a notice of non-compliance in relation to a year later than that previous year and a year earlier than the current income year.

Print **N** for no at **F** if the fund:

- did not elect to become a regulated fund
- received or expects to receive a notice of non-compliance from APRA or the Tax Office for the income year, or
- was not a resident fund at all times during the income year when the fund was in existence.

It is the responsibility of APRA or the Tax Office (depending on the type of fund or trust) to determine a fund's complying or non-complying status for tax purposes – except for non-resident funds, which are automatically treated as non-complying. The status determines the rate of tax applicable to the fund's income. Funds that have not elected to become regulated are automatically regarded as non-complying for tax purposes.

Non-complying funds are not eligible for the following tax concessions:

- tax at the 15% rate
- refunds of excess franking credits
- death and disablement insurance deductions
- potential detriment deductions
- exemption of income related to current pension liabilities
- ability to transfer the liability for tax on contributions
- ability to exclude last minute employer contributions from fund income
- ability to invest with pooled superannuation trusts
- exemption of income accrued before 1 July 1988
- exemption of non-reversionary bonuses on a policy of life insurance
- being treated as an excepted trust under paragraph 272-100(b) of Schedule 2F to ITAA 1936 for the purposes of the trust loss legislation
- concessional tracing rules under section 272-25 of Schedule 2F to ITAA 1936 for complying superannuation funds or complying ADFs holding fixed entitlements

in a trust, company or partnership for the purposes of applying the trust loss legislation in Schedule 2F to ITAA 1936 to another trust.

In addition, funds that are not regulated, or are otherwise non-complying, may have adverse effects in other areas such as the following:

- Employer contributions are subject to fringe benefits tax (FBT).
- Employees or depositors (members) who would otherwise be eligible to claim a deduction for their personal contributions are not entitled to do so.
- Employer contributions to such funds cannot be used by an employer as an offset against their minimum contribution liabilities under the provisions of the superannuation guarantee legislation.
- A liability for tax on transfers from certain superannuation funds may be imposed.
- Persons will not be able to elect to transfer their entitlements from the Superannuation Holding Accounts (SHA) special account to such funds.
- Superannuation contributions made on behalf of a child will be treated as taxable contributions.

## 7 IS THE ENTITY A SELF-MANAGED SUPERANNUATION FUND (TAX OFFICE REGULATED), THAT WISHES TO PROVIDE MEMBER CONTRIBUTION REPORTING DATA?

### NOTE

This item does not appear on the paper version but only on the electronic version of the *Fund income tax and regulatory return*.

The due date for SMSFs to lodge member contributions reporting data is 31 March immediately following the end of the financial year. However, the Commissioner has granted a concession to SMSFs who choose to lodge their member contributions statement using the merged electronic fund return, to lodge the completed form on or before, but no later than, the day on which the fund is required to lodge its income tax return.

**NOTE:** Small APRA Funds (SAFs) will no longer be able to provide member contribution reporting data with this fund return. Member contribution statements will need to be lodged via a separate process. The due date for SAFs to lodge member contribution reporting data is 31 October immediately following the end of the financial year.

For more information about self-managed fund structures and rules, visit our website at [www.ato.gov.au/super](http://www.ato.gov.au/super) or phone the Superannuation Infoline on **13 10 20**.

If you have printed **Y** for yes at **J**, include member contribution reporting at the end of this fund return. For more information on how to complete item **7**, see the *Member contribution statement (MCS) instruction guide*, available on our website.

A superannuation provider can elect to print **N** for no at item **7** and lodge an electronic or paper MCS separately.

## 8 CALCULATION STATEMENT

This statement works out the tax liability where there is a taxable income.

The information provided at certain labels of the calculation statement is used to calculate the Commissioner's instalment rate for quarterly and annual payers under the PAYG income instalment system for the next income year. Taxpayers must complete all labels as accurately as possible to ensure that the rate calculated results in a reliable estimate of tax payable for the 2006–07 income year.

### Refund of excess franking credits

Complying superannuation funds, complying ADFs and PSTs are entitled to claim a refund of excess franking credits in respect of dividends received (including non-share dividends and assessable dividends from a New Zealand franking company).

If you are one of these superannuation entities, show the amount of franking credits that relate to dividends received (including non-share dividends and assessable dividends from a New Zealand franking company) at **Q Refundable franking credits**.

If the fund is a non-complying superannuation fund or a non-complying ADF, the fund is entitled to a tax offset of franking credits that relate to dividends received (including non-share dividends and assessable dividends from a New Zealand franking company) against the income tax liability of the fund. Show the amount of franking credits included in assessable income at **C Rebates/tax offsets** item 8. The amount of franking credits included in assessable income are also shown at **K Franking credits** or **N Australian franking credits from a New Zealand company** item 9a.

#### NOTE

A dividend from a New Zealand franking company may also carry New Zealand imputation credits. An Australian resident cannot claim any New Zealand imputation credits.

### Taxable income

Show at **A** the amount of taxable income of \$1 or more. This amount is the amount shown at **T Taxable income or loss** item 9b and takes into account any concessions or adjustments allowable for income tax purposes.

Write zero (**0**) at **A** if you have no taxable income or have a taxation loss. Show the loss amount at **T Taxable income or loss** item 9b and print **L** in the box at the right of the amount.

### Gross tax

Show at **B** the amount of tax payable before the allowance of any rebates, tax offsets and credits. Ensure that the correct rate of tax is applied at the following labels in item 9a:

- net private company dividends and other excessive non-arm's length income shown at **H** item 9a, and
- sections 288A and 288B of ITAA 1936 net previous income shown at **W** item 9a.

### Foreign tax credits

Show at **D** the self-determined amount that is the lesser of:

- the foreign tax paid (or taken to have been paid), and
- the Australian tax payable.

To calculate foreign tax credit, see the *Foreign income return form guide*, available on our website, and *How to claim a foreign tax credit 2006*.

If the fund received franked distributions directly or indirectly from a New Zealand franking company, see **Trans-Tasman imputation** on page 5.

### Rebates/tax offsets

Show at **C** the total of rebates and tax offsets available and not the amounts giving rise to the tax rebate and tax offset. If you are a complying superannuation fund, complying ADF or PST, do not include franking credits that relate to dividends received (including non-share dividends) and assessable dividends from a New Zealand franking company). Show these at **Q Refundable franking credits** item 8.

#### Commonwealth loan interest rebate

If the fund has included in **C Gross interest** item 9a an amount received for Commonwealth bonds issued before 1 November 1968, the fund is entitled to a rebate on that part of its interest income. The rebate is calculated at 10 cents on each dollar of relevant income and the resulting amount included at **C Rebates/tax offsets** item 8. For more information, see section 160AB of ITAA 1936.

### Total of D and C

Add the amounts at **D** and **C** and show the total at **G**.

### Tax payable

Subtract the amount at **G** from the amount at **B Gross tax**. The amount shown at **G** must be less than or equal to the amount at **B Gross tax**. This cannot be a negative amount.

### Section 102AAM interest charge

Show at **H** the amount of interest calculated under section 102AAM in respect of a distribution received from a non-resident trust. Section 102AAM of ITAA 1936 imposes an interest charge on certain distributions from non-resident trusts. For more information, see the *Foreign income return form guide*, available on our website.

## Credit for interest on early payments – amount of interest

Show at **V** only the calculated interest amount of 50 cents or more for early payments. Do not show payment amounts.

Interest may be payable where an actual payment is made on account of certain amounts more than 14 days before the due date of payment. Amounts which may attract early payment interest include payments of:

- income tax,
- shortfall interest charge and
- interest payable under section 102AAM.

Amounts which are not directly paid, but are reduced by the crediting or applying of an amount, do not attract early payment interest. These amounts include:

- credit for instalments payable under the PAYG instalment regime
- credit for amounts withheld from withholding payments under the PAYG withholding regime
- an overpayment of other income tax liabilities
- an RBA surplus, and
- any other credit entitlement arising under a taxation law.

Early payment interest is also not payable on:

- any component of the payment that exceeds the amount due, and
- an amount for any period during which that amount also attracts interest on overpayment.

Early payment interest is calculated from the date the early payment is made to the date the amount becomes due and payable. However, where an amount paid early on account of a tax liability is refunded before the due and payable date of the liability, interest does not accrue for the period after the date the amount is refunded.

Date of payment is:

- the date shown on the receipt for payment to the Tax Office
- the date payment is posted to the Tax Office, plus three days
- the date shown on the taxpayer's bank statement where payment is made through direct debit – that is, electronic funds transfer (EFT).

**TABLE 5**

The rates of interest on early payments for the 2005–06 income year are:

Quarter	Interest rate (pa)
Jul–Sep 2005	5.68%
Oct–Dec 2005	5.62%
Jan–Mar 2006	5.63%
Apr–Jun 2006	5.61%

If the early payment extends over two or more interest periods, calculate the interest for the number of days in each period.

Interest is calculated as follows:

$$\text{Interest} = \frac{\text{Number of days}}{365^*} \times \text{amount of payment} \times \text{interest rate for period}$$

\*366 for a leap year

Keep a record of the amount of early payment interest claimed. This interest is assessable as income in the income year it is paid or credited against another liability.

## Credit for tax withheld where ABN/TFN not quoted

Show at **M**:

- the total tax withheld from payments subject to withholding where an ABN was not quoted. (This amount equals the sum for the amounts shown in the tax withheld boxes on the *Non-individual PAYG payment summary schedule 2006* – see **Schedules** on page 2.)
- any amounts deducted from investments where a TFN has not been quoted to the financial institution.

If a credit is reported at **M** for tax withheld where an ABN was not quoted, the corresponding gross payment must be declared at **L** **Gross payments where ABN not quoted** item 9a.

## Credit for tax withheld – foreign resident withholding

Show at **E** the total amount of tax withheld from payments subject to foreign resident withholding. This includes any distributed share of foreign resident withholding credits distributed to the fund from a partnership or trust.

Where a credit is claimed at **E** for tax withheld under foreign resident withholding, the corresponding gross payment must be declared at **O** **Gross payments subject to foreign resident withholding** or at **V** **Gross distribution from partnerships** or at **X** **Gross distribution from trusts** item 9a.

## Refundable franking credits

Show at **Q** the amount of franking credits relating to dividends (or non-share dividends) including venture capital franked dividends paid and assessable dividends from a New Zealand franking company if the fund is eligible for a refund of excess franking credits.

Do not include at **Q** credits included at **D Foreign tax credits** item **8** or payments for the current year tax liability. Show any amounts already paid for the current year tax liability at **T PAYG instalments raised** item **8**.

### Total of **V, M, E** and **Q**

Show at **R** the total of the amounts at **V, M, E** and **Q**.

### Subtotal

Subtract the total at **R** from the sum of the amounts shown at **Tax payable** and **H Section 102AAM interest charge**. Show the resulting amount at **Subtotal**.

### PAYG instalments raised

Show at **T** the total of the fund's PAYG instalments for the income year of the tax return, whether or not the instalments have actually been paid.

Include the following amounts in the total instalment amount:

- If the fund used the instalment amounts worked out by the Tax Office which the fund did not vary, include the amount pre-printed at **T7** on the fund's quarterly activity statements or at **T5** on the annual instalment activity statement.
- If the fund did not use the instalment amounts worked out by the Tax Office, include the amounts which the fund reported at **5A** on the fund's activity statements, reduced by any credits the fund claimed at **5B**.

To ensure the fund receives the correct amount of credit for its PAYG instalments, make sure all of its activity statements are finalised before lodging the fund return. If the fund is required to lodge its activity statements, it should do so even if it can't pay on time, or had nothing to pay.

The fund is entitled to a credit for its PAYG instalments even if it has not actually paid a particular instalment. However, the fund will be liable for the general interest charge on any outstanding instalment for the period from the due date for the instalment until the date it is fully paid.

### Total amount of tax payable (+) or refundable (-)

Show at **S** the balance of tax payable (+) or refundable (-).

The amount at **S** does not take into account any interim or voluntary payments the fund has made against its income tax liability for the year of this fund return. If the fund has made such payments, take these into account in calculating the final payment but do not show the amounts on this fund return.

Do not send the payment with the fund return. Send the payment to the address on page 52.

The lodgment address is also on page 52.

### Record keeping

Funds must keep all documentation issued by the financial institution detailing payments of income and any TFN amounts deducted from those payments.

They must also maintain details of any TFN amounts deducted from an income payment made to the funds and subsequently refunded by their financial institution. Funds must keep a record of the following details of refund receipts:

- amount of refund received
- date of refund
- investment reference number – for example, bank account number of investment relating to refund.

### Tax file number (TFN)

Write the TFN of the fund in the boxes provided. Ensure that the TFN is also written in the boxes provided on page 1 of the fund return.

### INFORMATION STATEMENT

The assessable income of a complying superannuation fund, ADF or PST does not include non-reversionary bonuses paid on life insurance policies.

Funds which invest wholly in life offices are not required to include income from these sources on their fund returns.

The life insurance company is liable for tax on the income of its superannuation business. Similarly, for funds that invest wholly in PSTs, the tax return of the trust includes the relevant income. In these circumstances, if the fund has no investment income, the trustee of the investor fund leaves the items dealing with investment income blank.

Do not include proceeds received on redemption or disposition of policies or units from life insurance companies or PSTs as income of the investor fund.

### 9A INCOME

If goods and services tax (GST) is payable on income, exclude the GST from the income derived. Deductions are reduced by the input tax credit entitlement. If you are not registered or required to be registered for GST purposes or not entitled to claim input tax credits, then your deductions are not adjusted for GST. You claim the GST inclusive amount incurred on outgoings. Special rules apply to GST adjustments.

### Did you have a CGT event during the year?

A fund makes a capital gain or capital loss if certain events or transactions – called CGT events – happen. Most commonly, CGT events happen to a fund's CGT assets – for example, the disposal of a CGT asset – but some CGT events relate directly to capital receipts.

Even though a fund may have a CGT event, the capital gain or capital loss can be disregarded in some cases – for example, a capital gain or capital loss in relation to segregated current pension assets of a complying superannuation entity is disregarded.

If the fund ceases to hold or to use a depreciating asset and the asset was used for both taxable and non-taxable purposes, a CGT event may happen to the asset. For more information, see the *Guide to depreciating assets 2006*.



If the fund had a CGT event happen during the income year, or if the fund received a distribution of a capital gain from a trust, print **Y** for yes at **G**.

For more information about CGT events see the *Guide to capital gains tax 2006*. This publication includes:

- a capital gain or capital loss worksheet for calculating a capital gain or capital loss for each CGT event
- a CGT summary worksheet for calculating the fund's net capital gain or capital loss, and
- a *Capital gains tax (CGT) schedule 2006* (CGT schedule).

The worksheets will help you calculate the net capital gain or capital loss for the income year and complete the CGT labels on the fund return. You do not have to complete the worksheets and you do not have to attach them to the fund return (but do keep them with the fund's tax records).

However, you must complete a CGT schedule and attach it to the fund return if the fund has:

- total current year capital gains for the income year greater than \$10,000, or
- total current year capital losses for the income year greater than \$10,000.

### Net capital gain

The fund's net capital gain is the total capital gains made for the income year reduced by current year capital losses, prior year net capital losses and any other relevant concessions.

Show at **A** the amount of net capital gain calculated or transferred from:

- **G** at part H of the CGT summary worksheet, or
- **G** at part H of the CGT schedule, if one is required.

For more information on how to calculate the fund's net capital gain, see the *Guide to capital gains tax 2006*.

#### **!** NOTE

The fund may need to complete a *Losses schedule 2006*. For more information, see **Schedules** on page 2 and see the *Losses schedule instructions 2006*.

### Gross rent and other leasing and hiring income

Show at **B** all income from rents – being income from land and buildings – leasing and hiring. This item cannot be a loss.

### Gross interest

Show at **C** the total interest from all sources received by the fund. This item cannot be a loss.

#### Record keeping

Keep a record of the following:

- name and address of the borrower
- amount received or credited.

Do not include non-share dividends received from holding a non-share equity interest. If the fund holds such an interest, the issuer is obliged to forward a dividend statement with

details of the dividends, which should be shown at item **9a** labels **D**, **J** and **K** as applicable. Further information on non-share dividends and non-share equity interests is in the *Guide to the debt and equity tests*, available on our website.

### Dividends

Dividends or non-share dividends paid by resident entities that have paid sufficient Australian tax on or after 1 July 1987 may carry franking credits for resident recipients of these dividends. These dividends are known as franked dividends.

In 2003, rules were enacted to allow New Zealand companies to join the Australian imputation system. From 1 October 2003, dividends paid by New Zealand resident companies that have chosen to join the Australian imputation system may also carry franking credits.

For income tax purposes under the debt and equity measures, certain interests which are not shares in legal form may be treated in the same way as shares, from 1 July 2001. These interests are called 'non-share equity interests'. Generally returns paid on non-share equity interests are frankable in the same way that dividends are frankable. The *Guide to the debt and equity tests*, available on our website, provides an overview of the debt and equity rules and explains what a non-share equity interest is.

Show private company dividends (including non-share dividends) at **H** item **9a**. For more information, see **Net private company dividends and other excessive non-arm's length income** on page 23.

Do not show at **H** dividends received from a New Zealand franking company. If the fund received assessable franked distributions from a New Zealand franking company directly from the company or indirectly through a partnership or trust, show these at **I** **Gross foreign income** and **E** **Net foreign income**.

Dividends (including non-share dividends) where no tax has been paid by resident entities are treated as unfranked dividends.

The fund may claim a tax offset for franked dividends (including non-share dividends) derived by a superannuation fund even if they are exempt because the income relates to current pension liabilities.

Similarly the fund may claim a venture capital tax offset on a dividend franked with a venture capital credit paid by a pooled development fund (PDF) even though the dividend is exempt. A franking offset is allowed for the franking credit attached to franked dividends.

Include the total franked and unfranked amount of the dividends received from resident entities and the franking credit in the fund's assessable income to determine the fund's net income or loss.

If family trust distribution (FTD) tax has been paid on a dividend (including a non-share dividend) paid or credited to the fund by a company that has made an interposed entity election, exclude the dividend from the assessable

income of the fund (section 271-105 of Schedule 2F to ITAA 1936). Any losses or outgoings incurred in deriving an amount which is excluded from assessable income under section 271-105 of Schedule 2F are not deductible, and the fund cannot claim a credit or tax offset for any franking credit attached to the whole or portion of the dividend which is exempt income under section 271-105 of Schedule 2F.

**D**, **J** and **K** refer to dividends derived from investments in resident entities (including listed investment companies).

#### Demerger dividends

In addition, unless the head entity elects otherwise, demerger dividends are excluded from assessable income under subsection 44(4) of ITAA 1936. The head entity would be expected to advise whether the dividend is a non-assessable demerger dividend or not. If the fund has derived a demerger dividend to which subsection 44(4) applies, do not show it at **D**, **J**, **K** or **H**.

#### Franked dividend from a New Zealand franking company

If the fund received assessable franked distributions from a New Zealand franking company directly or indirectly through a partnership or trust, show these at **I** **Gross foreign income** and **E** **Net foreign income**. Do not include any Australian franking credits attached to the distribution. Include the amount of Australian franking credits included in assessable income at **N** **Australian franking credits from a New Zealand company** and **C** **Rebates/tax offsets** item 8, if the fund is a non-complying superannuation fund or **Q** **Refundable franking credits** item 8, if the fund is a complying superannuation fund. To work out whether the dividend is assessable, see the *Foreign income return form guide*, available on our website.

#### Unfranked amount

Show at **D** the total amount of unfranked dividends (including unfranked non-share dividends) derived.

Do not show at **D** any unfranked distributions from a New Zealand franking company. Show these at **I** **Gross foreign income** and **E** **Net foreign income**.

#### Franked amount

Show at **J** the total amount of franked dividends (including franked non-share dividends) derived by the fund before grossing up by the amount of company tax attributable to the dividends.

Do not show at **J** any franked amounts from a New Zealand franking company. Show these at **I** **Gross foreign income** and **E** **Net foreign income**.

#### Franking credit

Show at **K** the amount of the franking credits attached to dividends (including non-share dividends) received.

Franking credits may be offset against the tax on all taxable income of a fund, including taxable contributions and capital gains.

Any excess franking credits that relate to dividends (including non-share dividends) received may be refunded. If you are a complying superannuation fund, complying ADF or PST, show the amount of franking credits attached to dividends (including non-share dividends) received at **Q** **Refundable franking credits** item 8. If you are a non-complying superannuation fund or a non-complying ADF show the amount of franking credits attached to dividends (including non-share dividends) received at **C** **Rebates/tax offsets** item 8.

Do not show at **K** any franking credits attached to assessable dividends received directly or indirectly from a New Zealand franking company. Show these at **N** **Australian franking credits from a New Zealand company** item 9a.

#### Debt and equity rules

Under measures that took effect from 1 July 2001 (the debt and equity rules), certain interests, which are not shares in legal form, are treated in the same way as shares for some tax law purposes. These interests are called 'non-share equity interests'. They include some income securities and some stapled securities. The *Guide to the debt and equity tests*, available on our website, provides an overview of the debt and equity rules and explains what a non-share equity interest is.

For the purposes of the imputation system, the new measures dealing with non-share equity interests apply to non-share dividends in the same way as they apply to dividends. A non-share dividend may be franked or unfranked. Show any amount of the dividend, whether franked or unfranked, or any amount of franking credit attached to the dividend, at the appropriate place on the fund return as if it were for a share.

#### Gross foreign income

Show at **I** the gross assessable income derived by the fund from foreign sources including New Zealand dividends and supplementary dividends. Do not include any Australian franking credits attached to New Zealand dividends. Show these at **N** **Australian franking credits from a New Zealand company** item 9a.

If a distribution involving foreign source income was received from a partnership or trust, show the foreign source income at **I**. Do not show it at:

- **V** **Gross distribution from partnerships** item 9a
- **X** **Gross distribution from trusts** item 9a.

An Australian resident fund makes a capital gain if a CGT event happens to any of its worldwide CGT assets.

A fund which is not an Australian resident makes a capital gain, generally speaking, if its CGT asset has the necessary connection with Australia just before the CGT event happens. Do not show at **I** any capital gains made from these assets. Include the capital gains at **A Net capital gain** item **9a**. For more information, see the *Guide to capital gains tax 2006*.

**!** NOTE

The fund may also need to complete a *Losses schedule 2006*.

### Net foreign income

Show at **E** assessable income derived by the fund from foreign sources including New Zealand dividends and supplementary dividends, grossed up by the foreign tax, but, net of expenses, including attributed foreign income. Exclude net foreign source capital gains – show these at **A Net capital gain** item **9a**.

You can offset foreign source tax losses, excluding capital losses, only against foreign source income. Do not show negative amounts at **E**.

Any excess of such foreign source losses over foreign source income is quarantined, and may be carried forward to be offset against future foreign source income of the same class. For more information on this process, see the *Foreign income return form guide*, available on our website.

Debt deductions that are not attributable to an overseas permanent establishment of the taxpayer are not quarantined to foreign income. Therefore, these deductions are not applied against foreign source income for the purposes of calculating net foreign income or identifying a foreign loss. Do not show these expenses at **E**. Show them at **A**, **B**, **K**, **L** or **D** as relevant.

**!** NOTE

Complete a *Losses schedule 2006* if the fund has:

- claimed a deduction for foreign source losses
- 'current year' foreign source losses
- foreign source losses carried forward to later income years
- claimed a deduction for prior year CFC losses
- 'current year' CFC losses
- CFC losses carried forward to later income years.

If the fund received franked distributions directly or indirectly from a New Zealand franking company, see **Trans-Tasman imputation** on page 5.

### Australian franking credits from a New Zealand company

This is a new label introduced as a consequence of the trans-Tasman imputation reforms. If the fund received franked distributions directly or indirectly from a New Zealand franking company, show the amount of Australian franking credits attached to the distributions that are

included in assessable income at **N**. To work out whether the distribution is assessable, see the *Foreign income return form guide*, available on our website.

In addition to the general rules governing franking credits, under sections 220-400 and 220-405 of ITAA 1997, the Australian franking credits received directly or indirectly from a New Zealand company are reduced by a supplementary dividend or the fund's share of a supplementary dividend if:

- the supplementary dividend is paid in connection with the franked dividend, and
- the fund is entitled to a foreign tax credit because of the franked dividend or because of its inclusion in assessable income.

Show the amount of franking credits included in assessable income at **C Rebates/tax offsets** if the fund is a non-complying superannuation fund, or at **Q Refundable franking credits** item **8** if the fund is a complying superannuation fund.

**!** NOTE

A dividend from a New Zealand franking company may also carry New Zealand imputation credits. An Australian resident cannot claim any New Zealand imputation credits.

### Gross taxable employer contributions

Show at **F** the gross taxable amount of employer contributions. This includes certain taxable contributions of both complying and non-complying funds as assessable income of the entity.

Generally, the liability for tax on contributions lies with the trustee of the entity receiving the contributions. ADFs and resident funds are entitled to deduct the costs of collecting all contributions.

The deductions for expenditure incurred by a resident fund are not reduced because it received non-taxable contributions – for example, non-deductible employee contributions.

However, non-resident funds are only entitled to a deduction for the cost of collecting taxable contributions.

Show deductions allowable against employer contributions at the appropriate labels in item **9b**.

Most contributions made to an employer-sponsored fund by a person other than the employee or member are assessable to the fund and are, therefore, taxable contributions. The amounts assessable to the fund include:

- all contributions paid by an employer, or another person – apart from the member – to a resident superannuation fund, excluding contributions paid by the trustee of an exempt life insurance fund, a complying superannuation fund, a complying ADF or a complying PST
- all contributions paid by an employer to a non-resident fund that relate to a period when the member was a resident, or was a non-resident deriving salary

and wage income assessable in Australia, excluding personal contributions and contributions in respect of an employee who is an exempt visitor (An exempt visitor is a resident of Australia who has a temporary entry permit granted under the *Migration Act 1958* for no more than four years and who is not awaiting the outcome of an application for a permanent entry permit.)

- the untaxed element of the post 30 June 1983 component of a rolled-over eligible termination payment (ETP) paid to a fund – for example, golden handshakes and rollovers from untaxed funds – known as the specified rollover amount
- specified rollover amounts of a complying superannuation fund that arose as a result of the complying superannuation fund ceasing to be a constitutionally protected superannuation fund during the year of income or at the end of the previous year of income
- shortfall amounts payable under the provisions of the superannuation guarantee legislation
- amounts transferred from SHA special account under the *Small Superannuation Accounts Act 1995*.

For more information on which transfer transactions may comprise taxable contributions to a fund, see **Transfers between superannuation funds** in the next column.

### **!** NOTE

Super Co-contributions are not treated as assessable income of the fund, and are therefore not shown at any label in the **Information statement**.

### **Pre 1 July 1988 funding credits**

Employer contributions to complying funds after 30 June 1988 may be exempt from contributions tax if they are made for a funding shortfall that existed at 30 June 1988. A fund with such a shortfall may make an application to APRA for a notice approving a pre 1 July 1988 funding tax credit. However, specific limits apply to the amount of credit that can reduce a fund's taxable employer contributions figure.

The trustee of the fund must elect in writing to treat certain contributions as exempt. Do not attach this election to the fund return.

Show the amount exempt by the election at **N Exempt section 275B contributions** item 11.

### **Gross taxable employee or depositor contributions**

Show at **M** the gross taxable amount of employee or depositor contributions. The trustee of a fund is to treat employee or depositor (member) contributions as taxable contributions only if the employee, depositor or an approved person gives a notice stating that they are intending to claim a deduction for their contributions.

The contributing employee, depositor or approved person must lodge the notice with the trustee and cannot revoke the notice. The trustee must acknowledge the notice.

Generally, only the amount up to the maximum deductible contribution level can be included as taxable contributions. Currently, the maximum amount for which a depositor, who is an eligible person, may claim a deduction – excluding any part of a rolled-over ETP – is the lesser of:

- \$5,000 plus 75% of contributions in excess of \$5,000, or
- the maximum deductible contribution based on the member's age in **table 6** – see *Taxation Determination TD 2005/21 – What are the thresholds and limits for superannuation amounts in 2005–06?*.

**TABLE 6**

Age in years	Deduction limit
under age 35	\$14,603
age 35 to 49	\$40,560
age 50 and over	\$100,587

When a depositor has reached 70 years of age they can only claim a deduction if it is made before the 28th day of the month following their 70th birthday.

Depositor contributions in excess of these limits or received after the 28th day of the month following the depositor's 70th birthday must be treated as undeducted contributions.

The rebate available for contributions to an eligible scheme by employee or depositor members has no effect on the exclusion of those contributions from assessable income of the fund.

Eligible spouse superannuation contributions are not taxable contributions and are not shown at any label in item **9a**.

Superannuation contributions made on behalf of a child under the initiative 'Superannuation for Life' are not assessable to the fund if paid to a complying superannuation fund. If superannuation contributions are paid to a non-complying superannuation fund, the trustee of the fund must include the superannuation contribution made on behalf of a child as taxable contributions.

For SMSFs receiving non-taxable contributions show the amount at **H Non-taxable contributions** item 34.

### **Transfers between superannuation funds**

Non-complying funds must also include as taxable contributions amounts transferred from a complying fund or a non-complying superannuation fund other than a continuously non-complying fund.

Special rules apply to amounts transferred to resident funds from eligible non-resident non-complying funds.

### **Approved deposit funds**

If an ETP is rolled over into an ADF, include the specified rollover amount in the taxable income of the ADF. The amount is the untaxed element of the post 30 June 1983 component of a rolled-over ETP that is paid to the ADF after 30 June 1988.

## Assessable amounts received from non-resident superannuation funds

Show at **P** all amounts received by the fund from eligible non-resident non-complying superannuation funds, that were in excess of what was properly payable to members on the days on which those payments took place.

Also include at **P** all amounts:

- received by the fund from eligible non-resident non-complying superannuation funds,
- that have been specified in elections made by members under subsection 27CAA(3) of ITAA 1936.

For more information on amounts received from eligible non-resident non-complying superannuation funds, visit our website at [www.ato.gov.au/super](http://www.ato.gov.au/super)

## Net private company dividends and other excessive non-arm's length income

Show at **H** the net amount of income which a superannuation fund, ADF or PST has received from a transaction or series of transactions between parties not at arm's length.

This includes income such as:

- private company dividends (including non-share dividends)
- certain distributions from trusts, and
- other excessive non-arm's length income that is greater than might have been expected had it been derived from an arm's length source.

Allowable deductions against that income are those that relate exclusively to the non-arm's length part of the income, and so much of other allowable deductions that, in the opinion of the Commissioner, appropriately relate to that income.

Gross up the amount of private company dividends (including non share dividends) to include any attached franking credit and reduce this amount by any related deductions. If you are a complying superannuation fund, complying ADF or PST, show the amount of franking credit attached to such dividends at **Q Refundable franking credits** item 8. If you are a non-complying superannuation fund or a non-complying ADF, show the amount of franking credit attached to such dividends at **C Rebates/tax offsets** item 8. Do not show at **H** any dividends received directly or indirectly from a New Zealand company.

If this amount is a loss, quarantine the loss for future offset against income of the same class. Do not show a loss at **H**, but keep a record of the quarantined loss amount with the fund's tax records.

If a fund receives a distribution from a trust, examine the circumstances of the distribution to determine if the income is 'special income' as defined in subsections 273(6), (7) and (8) of ITAA 1936. Special income includes:

- distributions from all trusts other than where the fund has a fixed entitlement to income from that trust, and
- non-arm's length trust distributions of income where the fund has a fixed entitlement to income from that trust.

If a distribution includes franked dividends (including franked non-share dividends), gross up the distribution to include any attached franking credit. If you are a complying superannuation fund, complying ADF or PST, show the amount of franking credit attached to such dividends at **Q Refundable franking credits** item 8. If you are a non-complying superannuation fund or a non-complying ADF, show the amount of franking credit attached to such dividends at **C Rebates/tax offsets** item 8.

For a fund receiving private company dividends (including non-share dividends), for which the Commissioner has formed the opinion that it would be reasonable not to treat the dividends as special income, the dividends received are taxed at 15%.

All other income shown at **H** is taxed at 47%.

## Sections 288A and 288B net previous income

Show at **W** the total net previous income.

A fund that changes from complying to non-complying (formula A), or a non-resident fund that becomes resident during or after the 1995–96 income year (formula B), must calculate its net previous income in respect of previous income years and include it as assessable income in the year the status change occurs.

### Formula A

If a complying fund changes to a non-complying fund in the current income year, the fund's net previous income in respect of previous income years is the amount calculated by the formula:

asset values – undeducted contributions

where:

- asset values are the market value of the fund's assets immediately before the start of the current income year, and
- undeducted contributions are the total amount of undeducted contributions in the fund – as defined in section 27A of ITAA 1936 – immediately before the start of the current income year that were made by current members of the fund.

The amount calculated at **W** is shown in the fund's assessable income for the current year and taxed at 47%.

### Formula B

If a non-resident superannuation fund becomes a resident fund in the current income year, the fund's net previous income in respect of the previous income years is the amount calculated by the formula:

asset values – member contributions

where:

- asset values are the sum of the market values of the fund's assets immediately before the start of the current income year, and
- member contributions are the total amount of contributions in the fund immediately before the start of the current income year that were made by current members of the fund.

The amount calculated at **W** is shown in the fund's assessable income for the current year and is taxed as follows:

- Funds that change their status from a non-resident fund to a resident non-complying fund are taxed at 47%.
- Funds that change their status from a non-resident fund to a resident complying superannuation fund are taxed at 15%.

### Gross distribution from partnerships

Show at **V** the gross distribution from all partnerships. If the distribution includes an amount of foreign income, including New Zealand dividends and supplementary dividends, show that portion of the distribution at **I** **Gross foreign income** and take it into account in calculating **E** **Net foreign income** item 9a.

Include any amounts subject to foreign resident withholding that were distributed to the fund from a partnership. Also include the fund's share of credit from foreign resident withholding. A credit can be claimed for the fund's share of credit from foreign resident withholding in the calculation statement at **E** **Credit for tax withheld – foreign resident withholding** item 8.

If the amount at **V** is a loss, print **L** in the box at the right of the amount.

If a distribution includes franked dividends (including franked non-share dividends), gross up the distribution to include any attached franking credit. If you are a complying superannuation fund, complying ADF or PST, show the amount of franking credit attached to such dividends at **Q** **Refundable franking credits** item 8. If you are a non-complying superannuation fund or non-complying ADF, show the amount of franking credits attached to such dividends at **C** **Rebates/tax offsets** item 8.

If family trust distribution (FTD) tax has been paid on income received by the fund from partnerships, exclude that amount from the assessable income of the fund (under section 271-105 of Schedule 2F to ITAA 1936).

If ultimate beneficiary non-disclosure tax (UBNT) has been paid on a share of the net income of a closely held trust to which another trust is presently entitled, that income attributable to the UBNT to which the fund is presently entitled or which has been distributed to the fund is excluded from the assessable income of the fund under sections 102UK and 102UM of ITAA 1936.

Losses and outgoings incurred in deriving an amount which is excluded from assessable income under section 271-105 of Schedule 2F or sections 102UK or 102UM are not deductible. A tax offset cannot be claimed by the fund for any franking credits attributable to the whole or a part of a dividend which is exempt from income tax under section 271-105 of Schedule 2F, section 102UK or section 102UM of ITAA 1936.

### Record keeping

Keep a record of the following:

- full name of the partnership
- TFN of the partnership – if known
- amount of income.

### Gross payments where ABN not quoted

Show at **L** gross payments made to the fund that were subject to withholding where an ABN was not quoted. Gross payments includes amounts withheld.

If an amount is reported at **L** complete a *Non individual PAYG payment summary schedule 2006*. For instructions on completing this schedule, see **Schedules** on page 2.

If a credit is reported at **M** item 8 for tax withheld where an ABN was not quoted, declare the corresponding gross payment at **L**.

### Record keeping

Keep a record of the following:

- full name of the payer
- TFN of the payer – if known
- amount of income.

### Gross payments subject to foreign resident withholding

Show at **O** gross payments made to the fund that were regulated foreign resident income. Gross payments include amounts withheld. Do not include at this label gross distributions of regulated foreign resident income from partnerships and trusts. Instead, show distributions from partnerships at **V**, and show distributions from trusts at **X**.

Regulated foreign resident income refers to payments which are prescribed in the Taxation Administration Regulations 1976 as being subject to the foreign resident withholding measure. For more information, see **Foreign resident withholding expenses** on page 27.

Do not include payments where the amount was varied to nil under the foreign resident withholding measure because the income was not taxable under a double tax agreement.

Where an amount is reported at **O** complete a *Non-individual PAYG payment summary schedule 2006*. For instructions on completing this schedule, see **Schedules** on page 2.

If a credit is reported at **E** **Credit for tax withheld – foreign resident withholding** for tax withheld, the corresponding gross payment must be declared at **O** (except where the credit is from partnership or trust distributions). **Note:** The gross payment is declared even if the credit is nil.

#### NOTE

Gross distributions of foreign resident regulated income from a partnership or trust will not have an associated payment summary.

## Gross distribution from trusts

Show at **X** the total amount of gross distributions received from trusts. If the gross distribution includes an amount of foreign income including New Zealand dividends and supplementary dividends, include that portion of the distribution at **1 Gross foreign income** and take it into account in calculating **E Net foreign income** item **9a**.

Include any amounts subject to foreign resident withholding that were distributed to the fund from a trust. Also include the fund's share of credit from foreign resident withholding. A credit can be claimed for the fund's share of credit from foreign resident withholding in the calculation statement at **E Credit for tax withheld – foreign resident withholding**.

This amount cannot be a loss.

Do not show capital gains received from a trust at **X** – include them at **A Net capital gain** item **9a**.

For information on how to include a capital gain received from a trust at **A** – for example, how to gross-up a capital gain for a trust distribution – see the *Guide to capital gains tax 2006*.

Do not show distributions from PSTs at **X**.

If a distribution includes franked dividends (including franked non-share dividends), gross up the distribution to include any attached franking credits.

If you are a complying superannuation fund, complying ADF or PST, show the amount of franking credit attached to such dividends at **Q Refundable franking credits** item **8**. If you are a non-complying superannuation fund or non-complying ADF, show the amount of franking credit attached to such dividends at **C Rebates/tax offsets** item **8**.

If family trust distribution (FTD) tax has been paid on income or capital of a trust to which the fund is presently entitled or which has been distributed to the fund, exclude that income or capital from the assessable income of the fund (under section 271-105 of Schedule 2F to ITAA 1936).

If ultimate beneficiary non-disclosure tax (UBNT) has been paid on a share of the net income of a closely held trust to which another trust is presently entitled, that income attributable to the UBNT to which the fund is presently entitled or which has been distributed to the fund is excluded from the assessable income of the fund (under sections 102UK and 102UM of ITAA 1936).

Losses and outgoings incurred in deriving an amount which is excluded from assessable income under section 271-105 of Schedule 2F or sections 102UK or 102UM are not deductible. A tax offset cannot be claimed by the fund for any franking credit attributable to the whole or part of a dividend which is exempt income under section 271-105 of Schedule 2F, section 102UK or section 102UM.

Print in the CODE box the code from **table 7** that best describes the type of trust for the amount of income shown at **X**. If this amount is from more than one type of trust, print the code that represents the trust with the greatest amount of income. Descriptions of the types of trusts listed in **table 7** are at **table 8**.

If the type of trust making the distribution is unknown, contact the trustee of that trust.

**TABLE 7**

Code	Type
<b>D</b>	Deceased estate
<b>F</b>	Fixed trust – other than a fixed unit trust or a public unit trust at <b>U</b> , <b>P</b> or <b>Q</b>
<b>H</b>	Hybrid trust
<b>S</b>	Discretionary trust – where the main source of income of the trust is from service and management activities
<b>T</b>	Discretionary trust – where the main source of income of the trust is from trading activities
<b>I</b>	Discretionary trust – where the main source of income of the trust is from investment activities
<b>M</b>	Cash management unit trust
<b>U</b>	Fixed unit trust – other than a public trust described in <b>P</b> or <b>Q</b>
<b>P</b>	Public unit trust (listed) – other than a cash management unit trust
<b>Q</b>	Public unit trust (unlisted) – other than a cash management unit trust

**TABLE 8 DESCRIPTION OF TRUSTS**

<p><b>Fixed trust</b></p> <p>A trust in which persons have fixed entitlements – as defined in section 272-5 of Schedule 2F to ITAA 1936 – to all of the income and capital of the trust at all times during the income year.</p>
<p><b>Hybrid trust</b></p> <p>A trust which is not a fixed trust but in which persons have fixed entitlements – as defined in section 272-5 of Schedule 2F to ITAA 1936 – to income or capital of the trust during the income year.</p>
<p><b>Discretionary trust</b></p> <p>A trust which is neither a fixed trust nor a hybrid trust and under which a person or persons benefit from income or capital of the trust upon the exercise of a discretion by a person or persons, usually the trustee.</p>
<p><b>Fixed unit trust</b></p> <p>A fixed trust in which interest in the income and capital of the trust are represented by units.</p>
<p><b>Public unit trust</b></p> <p>A fixed unit trust which is a widely held unit trust – as defined in section 272-105 of Schedule 2F to ITAA 1936 – at all times during the income year.</p>
<p><b>Public unit trust – listed</b></p> <p>A public unit trust in which any of its units were listed for quotation in the official list of a stock exchange in Australia or elsewhere during the income year.</p>
<p><b>Public unit trust – unlisted</b></p> <p>A public unit trust in which none of its units were listed for quotation in the official list of a stock exchange in Australia or elsewhere during the income year.</p>

### Record keeping

Keep a record of the following:

- full name of the trust
- TFN of the trust
- amount of income.

### Other income

Show at **R** the net amount of any income received that does not fall into any of the other categories.

Also show at **R** any assessable foreign exchange (forex) gains that have not been shown at any other category.

If a complying superannuation fund, ADF or PST receives a distribution from a partnership or a trust, and the partnership or trust (that made the distribution) claimed a deduction in respect of a LIC capital gain amount, then the complying superannuation fund, ADF or PST must add back as income one-third of their share of the deduction claimed by the partnership or trust.

If a non-complying superannuation fund or ADF receives a distribution from a partnership or a trust, and the partnership or trust (that made the distribution) claimed a deduction in respect of a LIC capital gain amount, then the non-complying superannuation fund or ADF must add back as income their share of the deduction claimed by the partnership or trust.

When a complying fund has received a rebate, or a refund of a premium for death and disablement cover, which has been allowed, or is allowable, as a deduction – in whole or in part – the rebate or refund is treated as assessable income.

If the fund ceases to hold or to use a depreciating asset, it will need to calculate a balancing adjustment amount to include in its assessable income or to claim as a deduction – see the *Guide to depreciating assets 2006* for more information.

### Total of above labels excluding **I**

Show at **S** the total income from **A** to **R**. Do not include any amount from **I** **Gross foreign income**. If the total amount is a loss, print **L** in the box at the right of the amount.

## 9B DEDUCTIONS

Exclude input tax credit entitlements for outgoings from expenses – see **9a Income** on page 18.

### Interest expenses within Australia and overseas

Thin capitalisation rules may reduce interest deductions. These rules place a limit on the amount of interest and other borrowing costs that can be deducted for Australian tax purposes. For more information, see appendix 5.

Section 25-90 of ITAA 1997 allows some interest expenses incurred in deriving certain non-assessable non-exempt income to be deducted from assessable income. For superannuation funds, the relevant non-assessable non-exempt income is foreign source income exempted from income tax under section 23AI or 23AK of ITAA 1936. Therefore, include at **A** and **B** interest expenses incurred in deriving this income if the expenses are not disallowed by the thin capitalisation provisions.

Sections 160AF and 160AFD of ITAA 1936 remove the need to subtract most debt deductions from assessable foreign income in determining net foreign income (for foreign tax credit purposes), an overall foreign loss and whether any deductions are denied by section 79D of ITAA 1936 (foreign loss quarantining). These debt deductions are effectively deductible against Australian source income.

As these interest expenses are deductible from assessable income (subject to the thin capitalisation provisions), include at **A** and **B** these expenses less any amounts disallowed by the thin capitalisation provisions.

Do not include allowable deductions relating to foreign source income at this part of item **9**. You should have made such deductions from the gross foreign income amount identified at **I** **Gross foreign income** item **9a** – and you should have recorded the resulting net foreign income at **E** **Net foreign income** item **9a**.

### Interest expenses within Australia

Show at **A** the deductible interest incurred on money borrowed from Australian sources:

- to acquire income-producing assets
- to finance operations, or
- to meet current expenses.

### Interest expenses overseas

Show at **B** the deductible interest incurred on money borrowed from overseas sources:

- to acquire income-producing assets
- to finance operations, or
- to meet current expenses.

The fund should generally withhold an amount of tax – withholding tax – from interest paid or payable to non-residents, and from interest derived by a resident through an overseas branch. The fund must remit these amounts to the Tax Office.



## Record keeping

If the fund paid interest to non-residents, keep a record of the following:

- name and address of recipients
- amount of interest paid or credited
- amount of withholding tax withheld and the date it was remitted to the Tax Office.

## Foreign resident withholding expenses

Show at **H** all expenses directly relating to the gaining of the income shown at **O** **Gross payments subject to foreign resident withholding** or **V** **Gross distribution from partnerships** or **X** **Gross distribution from trusts** item **9a**. Expenses incurred in gaining gross distributions of income subject to foreign resident withholding are also part of the consolidated figure and should not be shown at any other deduction label in item **9b**. Do not include any expenses that were incurred in gaining income that is not assessable in Australia.

## Total salary and wage expenses

Show at **C** the total salary, wage and other labour costs incurred in respect of employees employed by the trustee of the fund.

These expenses include any salary and wages, allowances, bonuses, payments for casual labour, retainers and commissions paid to people who receive a retainer, and workers' compensation paid through the payroll, where any of these payments are applicable to the fund.

Also included are direct and indirect labour, holiday pay, long service leave, lump sum payments, other employee benefits, overtime, payments under an incentive or profit sharing scheme, retiring allowances and sick pay, where any of these payments are applicable to the fund. Include any salary and wages paid to an associated person of the fund.

However, these expenses exclude pension payments, agency fees, contract payments, sub-contract payments, service fees, superannuation, reimbursements or allowances for travel, wages or salaries reimbursed under a government program, management fees and consultant fees.

## Capital works deductions

Show at **Q** the deduction claimed for capital expenditure on special buildings, which includes eligible capital expenditure on extensions, alterations or improvements. Exclude capital expenditure for mining infrastructure buildings and timber milling buildings.

For more information on capital works deductions, see appendix 2.

## Deduction for decline in value of depreciating assets

Show at **W** the deduction for decline in value of depreciating assets for taxation purposes.

## NOTE

Complete and attach a *Capital allowances schedule 2006* if an amount of more than \$15,000 is shown at **W**. For more information see the *Capital allowances schedule instructions 2006*.

The decline in value of a depreciating asset is generally worked out using either the prime cost or diminishing value method. Both methods are based on the effective life of an asset. For most depreciating assets, the fund can choose whether to self-assess the effective life or to adopt the Commissioner's determination which can be found in *Taxation Ruling TR 2000/18 – Depreciation effective life and addendums*.

The fund can deduct an amount equal to the decline in value for an income year of a depreciating asset that it held for any time during that year. However, the deduction is reduced to the extent the fund uses it or has it installed ready for use for other than a taxable purpose.

The decline in value of a depreciating asset costing \$300 or less is its cost (but only to the extent the asset is used for a taxable purpose) if the asset satisfies all of the following requirements:

- It is used predominantly for the purpose of producing assessable income that is not income from carrying on a business.
- It is not part of a set of assets acquired in the same income year that costs more than \$300.
- It is not one of any number of substantially identical items acquired in the same income year that together cost more than \$300.

The decline in value of certain assets with a cost or opening adjustable value of less than \$1,000 can be calculated through a low-value pool. Assets eligible for the immediate deduction cannot be allocated to a low-value pool.

For more information on deductions for decline in value, see the *Guide to depreciating assets 2006*.

## Group life and disability premiums

A deduction is allowable where a premium for an insurance policy is wholly or partly for death and disability cover. The amount allowable as a deduction for death cover is:

- 30% of the premium where the policy is a whole of life policy
- 10% of the premium paid where the policy is an endowment policy.

For both whole of life and endowment policies, any disability component of a premium specifically identified in the policy is deductible.

Show at **J** the amount of the deduction. No actuary's certificate is needed in the above circumstances.

In any other case, the amount of the premium attributable to the death and disability cover is allowable. This needs to be evidenced by an actuary's certificate.

A complying fund is not allowed a deduction for premiums on insurance policies where the income payments are made during periods of temporary disability longer than two years. This applies to policies entered into or renewed since 2 December 1998. For more information, see *Taxation Determination TD 98/27 – Is a deduction allowable to complying superannuation funds under section 279 of the Income Tax Assessment Act 1936, for insurance premiums attributable to the provision of benefits for members in the event of temporary disability longer than two years?*.

In the case of funds which self-insure, the deduction is equal to a reasonable arm's length premium, rather than the lowest arm's length premium, for the cost of death and disability cover provided. An actuary's certificate is also required.

### Management/administration expenses

Show at **K** the amount of expenses of a revenue nature incurred in the management and administration of superannuation entities, unless allowed by other specific income tax provisions.

### Investment expenses

Show at **L** the amount of expenses of a revenue nature incurred in deriving investment income, unless allowed by other specific income tax provisions. Do not include any amount that is shown at **K** **Management/administration expenses**.

Complying funds and complying ADFs may claim deductions for expenses incurred in relation to acquiring, holding or disposing of:

- units in a PST
- life insurance policies issued by life insurance companies
- interests in trusts whose assets consist wholly of such life insurance policies.

You can claim the deduction if the expenditure would qualify for deduction under the deduction provisions of ITAA 1936 or ITAA 1997 as if any profits, gains or bonuses derived from investments in PSTs, life insurance policies or interests in trusts (as above) that are of a capital nature, were instead assessable as being of an income nature.

Our view on the application of the relevant provisions – sections 279E and 289A of ITAA 1936 – is set out in *Taxation Determination TD 1999/6 – What is the purpose of sections 279E and 289A of the Income Tax Assessment Act 1936?*.

Investment charges that are deducted by the PST or life insurance company from gross contributions transferred from the fund result in a reduced amount of contributions for investment by the PST or life insurance company. In this case, the charges are of a capital nature as they reduce the amount of the investment, and are therefore not deductible.

Thin capitalisation rules may apply to reduce deductions. These rules place a limit on the amount of interest and other borrowing costs that can be deducted for Australian tax purposes. For more information, see appendix 5.

### Other deductions

Show at **D** the amount claimed for expenditure as below.

Print in the CODE box the code from **table 9** if a fund has claimed a deduction.

**TABLE 9**

Code	Other deductions in respect of:
<b>D</b>	Potential detriment payments
<b>C</b>	Claw back deduction
<b>M</b>	Both potential detriment payments and claw back deduction
<b>O</b>	Other deductions not listed above

You cannot claim a deduction against the assessable income of the fund for benefits paid.

There is no provision for funds to transfer or pass on deductions to other entities – for example, PSTs or life insurance companies.

You can claim a deduction for an amount equal to the total of any taxable contributions included as income that are fringe benefits and FBT has been paid by the contributor.

Thin capitalisation rules may reduce deductions. These rules place a limit on the amount of interest and other borrowing costs that can be deducted for Australian tax purposes. For more information, see appendix 5.

Certain expenses relating to foreign non-assessable non-exempt income are allowable deductions if the expenses are incurred in an income year that begins on or after 1 July 2001 (see section 25-90 of ITAA 1997).

### *Potential detriment payments made after the death of a member*

You can claim a deduction if a continuously complying fund or life insurance company makes a payment on the death of a member. A continuously complying fund is one that has complied with SISA standards at all times since 1 July 1988.

The payment must be made to the trustee of the estate of the deceased member or to a person who was a dependant of that member immediately before or at the time of payment. The deduction ensures that death benefits do not have to be reduced because of the tax on contributions.

To receive the deduction, obtain the relevant actuarial or audit certificates. The fund must satisfy the Commissioner that the full benefit of the deduction has been passed on to the dependants of the deceased person.

### *Claw back deductions*

Special deductions known as 'claw back deductions' are allowable for contributions incorrectly included in the assessable income of a complying fund.

This is the case if the trustee or the Commissioner do not receive notices causing contributions to be treated as non-taxable – see **M** **Gross taxable employee or**

**depositor contributions** item **9a** – until after the lodgment of the fund return or do not receive them until a later income year.

Generally, the adjustment is made by allowing a deduction in the year in which the notice is received but, if a fund is unable to utilise the deduction fully – for example, if that year's taxable income is exceeded by the deduction or the fund would lose the benefit of franking credits – the Commissioner may amend the earlier assessment.

#### *Deductible balancing adjustment amounts*

If the fund ceases to hold or to use a depreciating asset, it will need to calculate a balancing adjustment amount to include in its assessable income or to claim as a deduction. See the *Guide to depreciating assets 2006* for more information.

#### *Environment protection expenditure*

A deduction is allowed for certain capital expenditure incurred for the sole or dominant purpose of:

- preventing, combating or rectifying pollution of the environment, or
- treating, cleaning up, removing or storing waste.

See the *Guide to depreciating assets 2006* for more information.

#### *Film Licensed Investment Company deductions*

Under 375-H of ITAA 1997, eligible taxpayers are able to claim the payment for shares, in the income year in which the shares are fully paid and issued, for the company which has been granted the license to raise concessional capital under the *Film Licensed Investment Company Act 2005*.

Deductions are not available for shares issued after 30 June 2007.

#### *Listed investment company (LIC) capital gain amount*

A listed investment company (LIC) can pay a dividend which includes a LIC capital gain amount to a complying superannuation fund, ADF or PST. The complying superannuation fund, ADF or PST can claim a deduction of 33<sup>1</sup>/<sub>3</sub>% of that LIC capital gain amount. The LIC's dividend statement shows the LIC capital gain amount.

If a non-complying superannuation fund or ADF was paid a dividend by a listed investment company, and the dividend included a LIC capital gain amount, the non-complying superannuation fund or ADF is not entitled to claim a deduction for the LIC capital gain amount.

#### *Foreign exchange (forex) losses*

Also show at **D** any deductible foreign exchange (forex) losses made by the fund that have not been shown at any other category. See **Foreign exchange gains and losses** on page 4 for more information on the forex measures.

## **Transfer of taxable contributions**

Show at **E** the amount of taxable contributions transferred. A complying fund – transferor – may transfer the liability for tax on contributions to any PST or life insurance company in which it has an investment.

The amount transferred cannot exceed the total taxable contributions paid to the transferor in the year, and is further limited to an amount calculated by reference to the highest value of the fund's investment in the transferee in the income year concerned.

The transferee must agree to the transfer and the agreement must be evidenced in writing and signed by both the transferor and transferee.

The agreement is irrevocable for that particular year. The transferor must include the gross amount of contributions received at:

- **F** **Gross taxable employer contributions** item **9a**
- **M** **Gross taxable employee or depositor contributions** item **9a**.

The transferee must include the amounts transferred to it at the appropriate label.

#### *Record keeping*

Keep documents that evidence the transferee's consent to accept the transfer of taxable contributions and the associated taxation liability.

## **Tax losses deducted**

Show at **F** the carried forward tax losses claimed this year less any amount that has been offset against current year exempt income.

Do not show net capital losses at **F**. See **V** **Net capital losses carried forward to later income years** item **10**.

Domestic losses can be used to offset foreign source income. The trustee of the fund makes an election and keeps it with the fund's tax records. Foreign source losses may be deducted against foreign source income of the same class. For more information, see the *Foreign income return form guide*, available on our website.

### **NOTE**

- The trust loss legislation in Schedule 2F to ITAA 1936 affects the deductibility of prior year losses by all trusts which are not excepted trusts as defined in section 272-100 of Schedule 2F to ITAA 1936, such as non-complying superannuation funds or non-complying ADFs.
- The fund may need to complete and attach a *Losses schedule 2006* to the fund return. For more information, see **Schedules** on page 1 and the *Losses schedule instructions 2006*.

## Exempt current pension income

Show at **G** income that is exempt from the normal assessable income of a complying superannuation fund or PST. This exemption applies to income that is attributable to the liability of the fund to pay current pensions.

Normal assessable income of a complying fund is income other than certain non-arm's length income and taxable contributions.

This exemption applies to all funds currently paying pensions. It does not provide an automatic exemption of the fund's total income as certain conditions must be met to obtain an exemption, including the need to obtain actuarial certificates in some instances and lodgment of Tax Office and APRA returns.

There are two methods by which the trustee of a fund can determine the exempt income shown at **G**. Either one method or both methods may be used, depending on the circumstances.

The methods are as follows:

- Segregated current pension assets method: if the fund segregates its assets so that the income can be identified as derived from the segregated pension assets to provide for current pension liabilities – that income is the exempt income (section 282B of ITAA 1936).
- Proportion of income attributable to current pension liabilities method: if the fund's income is derived from assets that are not segregated between current and non-current pension liabilities, the income that is exempt from tax is the portion calculated by dividing the fund's unsegregated current pension liabilities by its unsegregated superannuation liabilities (section 283 of ITAA 1936):
  - Unsegregated current pension liabilities exclude liabilities covered by segregated current pension assets.
  - Unsegregated superannuation liabilities exclude liabilities covered by segregated current pension assets or segregated non-current pension assets. Under section 273B of ITAA 1936, segregated non-current pension assets arise where the fund sets aside assets relating to non-current pension liabilities.

For both methods, use the average liabilities of a fund in a particular year.

### Actuarial certificates:

- Segregated current pension assets: the trustee must obtain an actuary's certificate (unless exemption below applies) in respect of segregated current pension assets (section 273A of ITAA 1936).
- A separate actuarial certificate is required if the fund also has segregated non-current pension assets (section 273B of ITAA 1936).
- Proportion of income attributable to current pension liabilities: an actuary's certificate is required to value the fund's liabilities (section 283 of ITAA 1936).

### Exemption from having to obtain an actuary's certificate

If the only type of pension that the fund is paying, is a type prescribed in the Income Tax Regulations 1936 (currently including only allocated pensions and market linked pensions):

- the trustee is exempt from having to obtain an actuary's certificate in respect of current pension assets (section 273A(2A) of ITAA 1936).

**Note:** it is important to note that if the fund also pays any other type of pension, an actuary's certificate will be required in respect of all pensions, including prescribed pensions.

In a year where an actuary has not valued the total unsegregated superannuation liabilities, you can make an interim valuation of those total liabilities, provided the fund has no segregated assets. The interim valuation must apply the proportionate increase or decrease in the value of all assets of the fund since the last valuation to the value of the fund's liabilities at the last actuarial valuation.

### PSTs

PSTs are entitled to an exemption for the part of the income that is derived from their business with complying funds which the Commissioner is satisfied would have been exempt as above, had it been derived directly by the funds. Alternatively, PSTs can claim the exemption in the proportion that unit holdings of complying superannuation funds that are segregated current pension assets bear to the total unit holdings in the PST.

If part of the fund's franked dividend income is exempt because the fund has current pension liabilities, the fund is entitled to full franking credits.

### Taxable income or loss

Show at **T** all assessable income less allowable deductions. This amount takes into account any concessions or adjustments allowable for income tax purposes. If the fund has a taxable income of \$1 or more, transfer the amount at this label to **A Taxable income** item **8** on page 2 of the fund return.

If the amount calculated is an overall loss for the year print **L** in the box at the right of **T**.

## 10 LOSSES INFORMATION

### NOTE

If the total of the fund's tax losses and net capital losses carried forward to later income years is greater than \$100,000, complete a *Losses schedule 2006* and attach it to the fund return.

### Tax losses carried forward to later income years

Show at **U** the undeducted amount of tax losses incurred by the fund and carried forward to the 2006–07 income year under section 36-15 of ITAA 1997.

Do not include any net capital losses to be carried forward to later income years at **U** – show these at **V Net capital**

**losses carried forward to later income years** item **10** and in the CGT schedule, if a schedule is required.

Net exempt income reduces a current year tax loss and, to the extent of any excess, reduces prior year tax losses.

If the fund is required to complete a *Losses schedule 2006*, the amount shown at **U Tax losses carried forward to later income years** item **1** in part A of that schedule must be the same as the amount shown at **U** item **10** on the fund return.

### Net capital losses carried forward to later income years

Show at **V** the total of any unapplied net capital losses from collectables and unapplied net capital losses from all other CGT assets and events.

This information is calculated or transferred from:

- **V** in part I of the CGT summary worksheet, or
- **H** and **I** in part I of the CGT schedule, if one is required.

For more information see the *Guide to capital gains tax 2006*.

If the fund is required to complete a *Losses schedule 2006*, the amount shown at **V Net capital losses carried forward to later income years** item **2** in part A of that schedule must be the same as the amount shown at **V** item **10** on the fund return.

## 11 OTHER INFORMATION

### Intangible depreciating assets first deducted

The following intangible assets are regarded as depreciating assets (as long as they are not trading stock):

- certain items of intellectual property (patents, registered designs, copyrights and licences of these)
- computer software (or a right to use computer software) that the fund acquires, develops or has someone else develop for its use for the purposes for which it is designed (in-house software)
- mining, quarrying or prospecting rights and information
- spectrum licences
- datacasting transmitter licences
- certain indefeasible rights to use international submarine cable systems (IRUs).

A depreciating asset that the fund holds starts to decline in value from the time the fund uses it (or installs it ready for use) for any purpose, including a private purpose. However, the fund can only claim a deduction for the decline in value to the extent that it uses the asset for a taxable purpose, such as for producing assessable income.

Show at **A** the cost of all intangible depreciating assets for which the fund is claiming a deduction for decline in value for the first time. If the fund has allocated any intangible depreciating assets with a cost of less than \$1,000 to a low-value pool for the income year, also include the cost of those assets at **A**. Do not reduce the cost for estimated non-taxable use.

Do not include at **A** expenditure on in-house software which has been allocated to a software development pool.

For more information on decline in value, cost, low-value pools, in-house software and software development pools, see the *Guide to depreciating assets 2006*.

#### NOTE

Complete and attach a *Capital allowances schedule 2006* if an amount of more than \$75,000 is shown at **A**. For more information, see the *Capital allowances schedule instructions 2006*.

### Other depreciating assets first deducted

A depreciating asset that the fund holds starts to decline in value from the time it uses it (or installs it ready for use) for any purpose, including a private purpose. However, the fund can only claim a deduction for the decline in value to the extent it uses the asset for a taxable purpose, such as for producing assessable income.

Show at **U** the total cost of all depreciating assets (other than intangible depreciating assets) for which the fund is claiming a deduction for the decline in value for the first time. If the fund has allocated any assets (other than intangible depreciating assets) with a cost of less than \$1,000 to a low-value pool for the income year, also include the cost of those assets at **U**. Do not reduce the cost for estimated non-taxable use.

For more information on decline in value, cost and low-value pools, see the *Guide to depreciating assets 2006*.

#### NOTE

Complete and attach a *Capital allowances schedule 2006* if an amount of more than \$75,000 is shown at **U**. For more information, see the *Capital allowances schedule instructions 2006*.

### Termination value of intangible depreciating assets

Show at **B** the termination value of each balancing adjustment event occurring for intangible depreciating assets (including pooled assets). A balancing adjustment event occurs if the fund stops holding or using a depreciating asset or decides not to use it in the future – for example, the assets were sold, lost or destroyed.

Generally, the termination value is the amount the fund receives or is deemed to receive in relation to the balancing adjustment event. It includes the market value of any non-cash benefits such as goods and services the fund receives for the asset.

Do not include at **B** any consideration received during the income year in relation to in-house software for which the fund has allocated expenditure to a software development pool.

For more information on balancing adjustment events, termination value, in-house software and software development pools, see the *Guide to depreciating assets 2006*.

### Step 1

Add up the termination values for all intangible depreciating assets other than:

- assets falling within the provisions relating to investments in Australian films
- IRUs where the expenditure was incurred at or before 11.45am (by legal time in the ACT) on 21 September 1999
- IRUs used at or before that time for telecommunications purposes.

### Step 2

Insert the amount at **B**.

For more information about intangible depreciating assets, see the instructions relating to **A Intangible depreciating assets first deducted** item **11** on page 31.

## Termination value of other depreciating assets

Show at **W** the termination value of each balancing adjustment event occurring for depreciating assets (including pooled assets). A balancing adjustment event occurs if the fund stops holding or using a depreciating asset or decides not to use it in the future – for example, the assets were sold, lost or destroyed.

Generally, the termination value is the amount the fund receives or is deemed to receive in relation to the balancing adjustment event. It includes the market value of any non-cash benefits such as goods and services the fund receives for the asset.

For more information on balancing adjustment events and termination value, see the *Guide to depreciating assets 2006*.

### Step 1

Add up the termination values for all depreciating assets that the fund stopped holding or using other than:

- intangible depreciating assets
- buildings or structures for which a deduction is available under the capital works provisions
- assets used in research and development activities
- assets falling within the provisions relating to investments in Australian films.

### Step 2

Insert the amount at **W**. Do not show cents.

## Total investments

Show at **Q** the total value of all assets, including items such as life policies, units held in PSTs and assets funding current pension liabilities at the balance date. If the value of life policies is not known, use the total of contributions to date.

For SMSFs the total investment figure entered at **Q** must equal the total of the asset values entered at **M** to **N** item **28a Managed investments** and **O** to **X** item **28b Direct investments**.

## Number of members

Show at **R** the total number of members or depositors as at the balance date. Members for this item are persons:

- who are making contributions
- on whose behalf contributions are being made, and
- who are receiving pension entitlements.

In the case of superannuation based on individual life policies, it is sufficient to show the number of policies if the number of members is not readily available. If the fund has been wound up during the year, show the number of members as zero (**0**).

## Number of payments received from non-resident superannuation funds

Include at **S** the total number of payments received from eligible non-resident non-complying superannuation funds in respect of fund members. A payment from an eligible non-resident non-complying superannuation fund on behalf of a member should be counted regardless of whether or not any part of the payment is assessable under section 274(10) of ITAA 1936.

The assessable amount is to be shown at **P Assessable amounts received from non-resident superannuation funds** item **9a** if the member has made an election under subsection 27CAA(3) of ITAA 1936.

If the number of payments exceed 999, write 999 in the box.

## Exempt section 274(7) contributions

Show at **M** otherwise taxable contributions which the trustee of the fund, with the consent of the contributor, has elected to have treated as exempt under this section of ITAA 1936.

## Exempt section 275B contributions

Show at **N** otherwise taxable contributions which the trustee of the fund has elected to have treated as exempt under this section of ITAA 1936.

## Listed country

Show at **O** the amount of attributed foreign income from controlled foreign entities and transferor trusts in listed countries.

Attributed income is the income attributed to the taxpayer from controlled foreign entities, calculated in accordance with Division 7 of Part X of ITAA 1936, and includes amounts grossed up under section 392 of ITAA 1936, as appropriate, to the extent of any foreign taxes paid.

Listed countries (formerly known as broad-exemption listed countries) are listed in Part 1 of Schedule 10 to the Income

Tax Regulations 1936. The definition of a listed country trust is in section 102AAE of ITAA 1936.

Attributed income from transferor trusts is the total amount of income attributed to the taxpayer from a transferor trust that is a listed country trust, calculated in accordance with Subdivision D of Division 6AAA of Part III of ITAA 1936, and grossed up under section 102AAU(1)(d) of ITAA 1936, as appropriate, to the extent of any foreign taxes paid.

### Section 404 country

Show at **L** the amount of attributed income from controlled foreign entities section 404 countries.

Section 404 countries are listed in Part 2 of Schedule 10 to the Income Tax Regulations 1936.

Also include at **L** the amount of income attributed from a transferor trust if the entire income and profits of the trust are subject to tax in a section 404 country. Do not include the amount at **L** if it has already been included at **Q**

**Listed country** item 11.

### Unlisted country

Show at **J** the amount of attributed foreign income from controlled foreign entities in unlisted countries (excluding section 404 countries).

Unlisted countries are countries not listed in Part 1 of Schedule 10 to the Income Tax Regulations 1936.

Also include at **J** the amount of income attributed from a transferor trust if the amount has not been included at:

- **Q Listed country** item 11, or
- **L Section 404 country** item 11.

Do not include at **J** amounts already included at **L**.

### FIF/FLP income

Show at **P** the amount of attributed foreign income from foreign investment fund (FIFs) and foreign life policies (FLPs).

The terms FIF and FLP have the same meaning as set out in sections 481 and 482 respectively of Part XI of ITAA 1936.

Attributed income of a FIF or FLP is the income attributed to the taxpayer from FIFs or FLPs, calculated in accordance with Part XI of ITAA 1936.

If any attributed income is included at the above labels, complete section B of Schedule 25A, together with any other relevant section or schedule, and lodge them as part of the fund return.

Certain qualifying superannuation entities, certain fixed trusts and certain assets of life insurance companies are exempt from the FIF rules for income years beginning on or after 1 July 2003.

Other changes to the FIF rules:

- increase the balanced portfolio FIF exemption for all taxpayers from 5% to 10% for income years beginning on or after 1 July 2003

- exclude income from the management of funds from the FIF regime for notional accounting periods of FIFs beginning on or after 1 July 2003.

### NOTE

For more information on the calculation of the amounts to be reported at **O**, **L** or **J** item 11, see the *Foreign income return form guide*, available on our website.

For more information on the calculation of the amount to be reported at **P** item 11, see the *Foreign investment funds guide*, available on our website.

### Tax spared foreign tax credits

Show at **K** the amount of foreign tax credits relating to foreign tax forgone under an investment incentive scheme provided by a foreign government, if that tax forgone is deemed to have been paid for the purposes of Australia's foreign tax credit system.

### 12 ENTREPRENEURS TAX OFFSET

Complete this item only if the fund received a distribution from a partnership or a trust that was a Simplified Tax System (STS) taxpayer for the income year.

From 1 July 2005, certain small businesses that are in the STS will be eligible to receive the entrepreneurs tax offset (ETO). The ETO is available under subdivision 61-J of ITAA 1997 which was enacted on 1 April 2005.

Aimed at providing extra incentives and encouragement to small business growth, the ETO is a non-refundable tax offset which can be up to 25% of a small business's income tax liability in respect of their eligible STS business income. The ETO cannot be transferred to other entities or carried forward to later income years.

The tax offset is available to:

- an individual or a company that is an STS taxpayer
- the partners of an STS partnership
- the trustee or beneficiaries of an STS trust, depending on who is liable for tax on the trust income.

The amount of the tax offset varies depending on the taxpayer's STS group turnover. If the STS group turnover is \$50,000 or less, the taxpayer can claim a tax offset equal to 25% of their income tax liability attributable to their eligible STS business income. The tax offset begins to phase out when the STS group turnover of the small business passes \$50,000 and is reduced to zero when the STS group turnover reaches \$75,000.

A taxpayer may be eligible for more than one ETO for an income year. For example, if a superannuation fund is the beneficiary of a trust that has elected to enter the STS and also a partner in a partnership that has elected to enter the STS, it may be entitled to a tax offset in respect of both its share of the net STS income of the trust and its share of the net STS income of the partnership. However, if the trust and the partnership are grouped entities under the STS grouping rules, the amount of STS group turnover has to be taken into account in determining eligibility for the ETO.

If the fund has more than one source of net STS income, the details of each source and each ETO amount should be shown separately at this item.

**NOTE**

You may need to provide an attachment to the fund return. See **If the fund's income tax return is not lodged electronically** in the next column.

### STS Group turnover

If the fund is claiming an offset in respect of a share of net STS income received from a partnership or trust, show at **D** the STS group turnover of the partnership or trust. You may need to refer to the amount of the partnership's or trust's STS group turnover and the fund's share of the net STS income.

**STOP**

If the STS group turnover in relation to an amount of net STS income is \$75,000 or more, do not complete item **10** as the fund is not entitled to an entrepreneurs tax offset in respect of that net STS income amount.

### Net STS income from partnership or trust distribution

#### Step 1

Show at **E** the fund's share of net STS income from a partnership or trust. There must be an amount of net STS income included in an entity's assessable income before an entitlement to an offset arises.

**STOP**

Do not complete item **10** if there is no amount of net STS income or the allowable deductions exceed the STS annual turnover.

#### Step 2

In the code box at **E** print the code **P** for a share of net STS income received from a partnership and the code **T** for a share of net STS income received from a trust.

### Entrepreneurs tax offset

Show at **F** the amount of entrepreneurs tax offset in respect of each source of net STS income calculated as follows:

#### Step 1

Work out the fund's taxable income for the year.

#### Step 2

Work out 25% of the \*basic income tax liability on that taxable income.

#### Step 3

Work out the STS percentage of the taxable income using the following formula:

$$\frac{\text{the fund's share of net STS income for the year}}{\text{the fund's taxable income for the year}} \times 100$$

If the percentage that results is more than 100%, the STS percentage is 100%.

#### Step 4

If the STS group turnover of the partnership or trust is \$50,000 or less, the tax offset is the step 2 amount multiplied by the STS percentage.

#### Step 5

If the STS group turnover of the partnership or trust is more than \$50,000, the offset of the partnership or trust is adjusted by the STS phase-out fraction. This is worked out using the formula:

$$\frac{\$75,000 - \text{the STS group turnover for the year}}{\$25,000}$$

The tax offset in these circumstances is: **Step 2** amount multiplied by STS percentage multiplied by STS phase-out fraction.

\* Basic income tax liability – When calculating basic income tax liability, multiply the fund's taxable income by the applicable tax rate and take into account any special provisions that affect the calculation of the liability, but do not take into account any tax offsets.

The sum of the amounts shown at **F** is the fund's total entrepreneurs tax offset and should be claimed at label **C Rebates/tax offsets** in the calculation statement on page 2.

### If the fund's income tax return is not lodged electronically

The labels at item **12** are repeatable fields in an electronic environment to cater for funds that are entitled to more than one entrepreneurs tax offset. If the fund return is not lodged electronically and it is entitled to more than one offset, the details of each subsequent source of net STS income will need to be supplied on an attachment to the fund return in the same format as requested in these instructions.



### 13 LANDCARE AND WATER FACILITY TAX OFFSET

You cannot choose a tax offset for expenditure incurred after the 2000–01 income year on landcare operations or water facilities.

#### Landcare and water facility tax offset brought forward from prior years

Show at **B** the total of any landcare and water facility tax offsets carried forward and available for offset in this income year.

### 14 INTERNET TRANSACTIONS

Print **Y** for yes at **I** if, in deriving income, you used the internet to:

- receive orders for goods or services – for example, you received orders by email or a web page form, rather than by conventional post, telephone or facsimile
- receive payment for goods or services – for example, you received:
  - credit card or charge card details by email or web page form, rather than by conventional post, telephone or facsimile
  - digital cash
- deliver goods or services – for example, you:
  - used email, the world wide web (www) or file transfer protocol (FTP) to deliver digitised music, news articles or software, rather than conventional post to deliver software on a floppy disc
  - used email to give financial advice and received a commission in connection with this advice
  - advertised goods or services of other businesses for a fee on the internet
  - hosted websites, or
  - provided access to the internet.

Print **N** for no at **I**, if you used the internet only to:

- advertise your goods or services
- give support to your customers
- buy your stock.

### ITEMS 15 TO 24

You must answer these items even if you have no overseas transactions or interests.

#### Agents for non-residents

If a fund return that includes income or deductions from only the following activities is lodged in accordance with the following sections of ITAA 1936 (see **table 10**), and does not include income or deductions from any other source, print **N** for no at items **15**, **16** and **17** in respect of overseas transactions and interests in foreign companies and do not complete a *Schedule 25A 2006*.

**TABLE 10**

Industry type	Industry code	ITAA 1936 Section
Overseas shipping	99020	129
Agents for non-resident insurers	99050	144
Agents for non-resident reinsurers	99050	148
Control of non-resident's money	99070	255

#### Dividends as the only international transactions

If the fund paid to, or received dividends (including non-share dividends) from, a related overseas entity and those dividends were the only transactions with related overseas entities, print **N** for no at item **15** in respect of overseas transactions and do not complete section A of *Schedule 25A 2006*. Answer items **16** and **17** as required.

#### Schedule 25A 2006 and Thin capitalisation schedule 2006

More information about completing *Schedule 25A 2006* and *Thin capitalisation schedule 2006* is in the instructions to these schedules.

## OVERSEAS TRANSACTIONS OR INTERESTS/THIN CAPITALISATION/FOREIGN SOURCE INCOME

### International related party dealings/transfer pricing

#### 15 DID YOU HAVE ANY TRANSACTIONS OR DEALINGS WITH INTERNATIONAL RELATED PARTIES (IRRESPECTIVE OF WHETHER THEY WERE ON REVENUE OR CAPITAL ACCOUNT)?

Print **Y** for yes or **N** for no at .

International related parties are persons, including permanent establishments, who are parties to international dealings that can be subject to Division 13 of ITAA 1936, or the business profits article, or associated enterprises article, of a relevant double tax agreement. International related parties include the following:

- any overseas entity or person who participates directly or indirectly in the fund's management, control or capital
- any overseas entity or person in respect of which the fund participates directly or indirectly in the management, control or capital
- any overseas entity or person in respect of which persons who participate directly or indirectly in its management, control or capital are the same persons who participate directly or indirectly in the fund's management, control or capital
- a permanent establishment and its head office
- two permanent establishments of the same person.

'Participates' includes a right of participation, the exercise of which is contingent on an agreed event occurring and 'person' has the same meaning as in section 6 (1) of ITAA 1936 and section 995-1 of ITAA 1997.

The type of dealings or transactions that will require the fund to print **Y** for yes at this question are dealings by the entity with related parties as above, such as an overseas holding company, overseas subsidiary, overseas permanent establishment of the entity, or non-resident trust in which the entity has an interest. These dealings or transactions may be the provision or receipt of services, or transactions in which money or property has been sent out of Australia, or received in Australia from an overseas source during the income year. The dealings may also include transfer of tangible or intangible property, provision or receipt of services, or the provision or receipt of loans or financial services.

If money or property is not actually sent out of Australia or received in Australia, but accounting entries are made that have the effect of money or property being transferred, this is also to be taken as an international transaction.

#### 16 WAS THE AGGREGATE AMOUNT OF THE TRANSACTIONS OR DEALINGS WITH INTERNATIONAL RELATED PARTIES (INCLUDING THE VALUE OF PROPERTY TRANSFERRED OR THE BALANCE OUTSTANDING ON ANY LOANS) GREATER THAN \$1 MILLION?

At , print **Y** for yes if the aggregate amount of the dealings or transactions is greater than \$1 million; if not, print **N** for no.

The aggregate amount of the dealings is the total amount of all dealings, whether on revenue or capital account, and includes the balance of any loans or borrowings outstanding with international related parties.

If the answer at  is yes, complete section A of *Schedule 25A 2006*, together with any other relevant part or schedule, and attach the completed Schedule 25A to the fund return.

#### 17 OVERSEAS INTERESTS

Print **Y** for yes or **N** for no at . If the answer is yes, complete section B, and any other relevant part, of *Schedule 25A 2006*. The schedule must be completed, attached to the fund return, and lodged as part of that fund return.

The interests that will require the fund to complete Schedule 25A are those where the fund has:

- an interest in a controlled foreign company or trust
- an interest in a foreign investment fund or foreign life assurance policy, or
- transferred property, at any time, including money or services, to a non-resident trust, or where the fund is able to influence the decisions relating to a non-resident trust.

An interest in a controlled foreign company or trust may be either direct or indirect, and is taken to have the same meaning as set out in Division 3 Part X of ITAA 1936.

An interest in a foreign investment fund or foreign life assurance policy has the same meaning as set out in section 483 of ITAA 1936.

A fund has an interest in a transferor trust if it has ever made, or caused to be made, a transfer of property or services to a non-resident trust. 'Transfer', 'property' and 'services' are defined in section 102AAB of ITAA 1936. Sections 102AAJ and 102AAK of ITAA 1936 provide guidance in relation to whether there has been a transfer or deemed transfer of property or services to a non-resident trust.

## 18 THIN CAPITALISATION

See appendix 5 for information on whether the fund is subject to the thin capitalisation provisions. If the fund is subject to the thin capitalisation provisions, print **Y** for yes in the box at **Q** and complete the *Thin capitalisation schedule 2006*. The *Thin capitalisation schedule 2006* is available through our electronic lodgment service (ELS). Alternatively, complete a paper version of the schedule and post it to:

**Australian Taxation Office**  
**PO Box 1365**  
**ALBURY NSW 2640**

If the answer to item 18 is no, print **N** at **Q**.

## 19 FOREIGN SOURCE INCOME

Assessable foreign income is all income sourced from overseas, and includes interest, dividends, attributable income through the controlled foreign company (CFC) and foreign investment fund (FIF) regimes, and foreign-sourced capital gains.

Print **Y** for yes or **N** for no at **P**.

### **!** NOTE

For more information on attributable income, see the *Foreign income return form guide* and *Foreign investment funds guide*, available on our website.

For more information on foreign sourced capital gains, see the *Foreign income return form guide* and the *Guide to capital gains tax 2006*.

## 20 TRANSACTIONS WITH SPECIFIED COUNTRIES

Did you send any funds or property to, or receive any funds or property from, any of the countries listed in **table 11** in the next column? This includes sending or receiving the funds or property indirectly, for example, through another entity or country.

Do you have the ability to control the disposition of any funds, property, investments or any other assets located in any of the countries listed in **table 11**? This includes:

- funds or assets that may be located elsewhere but are controlled or managed from one of the countries listed in **table 11**, and
- where you have an expectation that you are able to control the disposition of the funds or assets or you can control the disposition indirectly, for example through associates.

**TABLE 11**

Andorra	Cook Islands	Liechtenstein	Samoa
Anguilla	Cyprus	Malta	San Marino
Antigua & Barbuda	Dominica	Marshall Islands	Seychelles
Aruba	Gibraltar	Mauritius	St Kitts & Nevis
Bahamas	Grenada	Monaco	St Lucia
Bahrain	Guernsey	Montserrat	St Vincent & the Grenadines
Belize	Isle of Man	Nauru	Turks and Caicos Islands
Bermuda	Jersey	Netherlands Antilles	US Virgin Islands
British Virgin Islands	Labuan	Niue	Vanuatu
Cayman Islands	Liberia	Panama	

Print **Y** for yes or **N** for no at **Q**.

You are not required to lodge a schedule if you have answered yes to this question.

## 21 EXEMPT CURRENT PENSION INCOME

If the fund has claimed an amount of exempt current pension income in respect of any pension not prescribed by the Income Tax Regulations 1936, has the trustee obtained the relevant actuary's certificate or certificates required by sections 273A, 273B or 283 of ITAA 1936 as a condition of exemption?

Print **Y** for yes or **N** for no in the box at item **21**.

## 22 DEATH OR DISABILITY DEDUCTION

Print **Y** for yes or **N** for no at item **22**.

## 23 TRANSFER OF TAXABLE CONTRIBUTIONS

Print **Y** for yes or **N** for no at item **23**.

If the answer to this item is yes, show:

- the name of each transferee
- the amount of contributions for each transferee, and
- the ABN of each transferee.

## 24 PAYMENTS TO CONTRIBUTING EMPLOYERS AND ASSOCIATES

Item **24** relates to payments made from a fund to an employer sponsor or to an associate. Print **Y** for yes or **N** for no in the box at item **24**.

### **!** NOTE

Funds which indicated they were an SMSF at **F11** item **4 Type of fund or trust** must complete items **25–34**.

## REGULATORY INFORMATION FOR SELF-MANAGED SUPERANNUATION FUNDS

Any fund that was an SMSF at any time during the 2005–06 income year must answer the following items.

If a fund switched regulator – that is, from an APRA-regulated SAF to a Tax Office-regulated SMSF or vice versa – during the year, answer the following questions for the period that the fund was an SMSF.

For more information on how to complete the regulatory information in this fund return, phone the Superannuation Infoline on 13 10 20.

### 25 FUND'S AUDITOR DETAILS

#### Auditor's name and professional body membership number

Print the full name and professional body membership number of the approved auditor who completed the audit report.

#### Name of organisation

Print the name of the auditor's firm.

#### Postal address

Print the postal address of the auditor.

#### Telephone

Print the telephone number, including the area code, of the auditor.

### 26 WHICH PROFESSIONAL BODY DOES THE AUDITOR BELONG TO?

Print in the code box at this item the code from **table 12** below that best describes the qualification that the approved auditor has or the professional body to which the approved auditor belongs. If the auditor has more than one qualification or belongs to more than one professional body, select the first code that applies.

**TABLE 12**

Code	Professional body or qualification
1	A registered company auditor
2	A member of CPA Australia
3	A member of the Institute of Chartered Accountants in Australia (ICA)
4	A member of the National Institute of Accountants (NIA)
5	A member or fellow of the Association of Taxation and Management Accountants (ATMA)
6	A fellow of the National Tax and Accountants Association Ltd (NTAA)
7	The auditor general of the Commonwealth, a state or territory

### 27 DID THE FUND COMPLY WITH ALL THE RELEVANT SIS REQUIREMENTS?

If the fund complied with the requirements of the *Superannuation Industry (Supervision) Act 1993* and the *Superannuation Industry (Supervision) Regulations 1994* (SIS), print **Y** for yes, otherwise print **N** for no, at item **27**.

#### NOTE

A compliance checklist is included at appendix 1.

### 28 FINANCIAL INFORMATION

Show all the earnings and assets of the fund at item **28** in the relevant categories.

#### NOTE

The fund's earnings and assets include in-house assets, related party investments and leased assets, which are also shown at:

- item **29 In-house and related party assets**
- item **30 Value of leased assets**.

#### Earnings column

Show at **A** to **L** the earnings for each category of investment. This is the net income – gross income less expenses incurred in earning the income – of any realised gain or loss. If the earning amount is negative, print **L** in the box at the right of the amount.

Do not include unrealised gains as earnings.

#### Asset values column

Show at **M** to **X** the asset value of each category of investment. This is the value shown in the fund's balance sheet at the balance date.

### 28A MANAGED INVESTMENTS

#### Life insurance policies

Life insurance policies include all individual, group, investment or other types of policies.

#### Other managed investments

This category includes placements with all external investment managers and PSTs.

An external investment manager is someone appointed by the trustee of the fund in accordance with section 124 of the *Superannuation Industry (Supervision) Act 1993* (SISA) to make investments on behalf of the fund.

- A pooled superannuation trust (PST) is a resident unit trust
- whose trustee is a trading or financial corporation formed within the limits of the Commonwealth, and
  - that is used only for investing assets:
    - of a regulated superannuation fund, approved deposit fund (ADF) or PST, or

- solely for the tax-advantaged business of life insurance companies, or
- of an exempt entity within the meaning of paragraphs (a), (c) or (d) of the definition of exempt entity in section 102M of ITAA 1936.

## 28B DIRECT INVESTMENTS

### Overseas assets

Overseas assets include holdings of public trusts or companies that are managed by managers living overseas – that is, where the fund purchased the interests directly from the overseas manager. Do not show holdings of PSTs, other superannuation investment trusts, public trusts or companies managed by managers living in Australia that have invested overseas.

### Real property

Real property includes investments in land and buildings that are located within Australia.

Show investments in real property that are located outside Australia in the overseas assets category.

### Other property

Other property includes investments in items such as machinery, cars, artworks and antiques.

### Listed shares and equities

This category relates to shares, equities and similar financial contracts – not debt securities – that are traded on the Australian stock exchanges. Do not show investments in listed trusts here – include them at public trusts.

### Unlisted shares and equities

This category refers to shares, equities and similar financial contracts that are not listed on the Australian stock exchanges.

### Public trusts

For the purposes of this item a public trust is a widely held unit trust or a fixed trust listed on the Australian stock exchanges.

This category does not include investments in PSTs, which are shown at **B Other managed investments** item 28a.

### Other trusts

This category includes investments in any trust that is not a public trust or a PST.

### Cash, debt securities and term deposits

This category includes amounts invested in bonds, debentures, income securities, cash management accounts and cash and term deposits held in financial institutions.

### Loans

This category includes any loans given by the fund.

## Other

This category includes income – excluding contributions – or assets which do not fall within any of the other categories.

### NOTE

The aggregate total of all classes of investments completed at **M** to **X** Asset values column should equal the figure at **Q Total investments** item 11.

## 29 IN-HOUSE AND RELATED PARTY ASSETS

### Earnings column

Show at **A** and **B** the net earnings – gross income less expenses incurred in earning the income – for each category of asset. If the earnings amount is negative, print **L** in the box at the right of the amount.

### Asset values column

Show at **C** and **D** the asset value of each category of asset.

### NOTE

The amounts shown at item 29 are also included at item 28a **Managed investments** and item 28b **Direct investments** in the relevant asset categories.

### In-house assets

Generally an in-house asset of a fund is an asset of the fund that is:

- a loan to, or an investment in, a related party of the fund
- an investment in a related trust of the fund, or
- subject to a lease or lease arrangement between the trustee of the fund and a related party of the fund.

Do not include investments that are not in-house assets because of the operation of the grandfathering, or deeming, provisions. Show these categories in **Related party investments**.

The in-house asset rules were amended by the *Superannuation Legislation Amendment Act (No 4) 1999*. The in-house asset rules are contained in Part 8 of SISA.

### Related party investment

These investments include:

- grandfathered investments – these are investments or acquisitions of assets made before 11 August 1999 that were not in-house assets at that time, and additions to these existing investments up to the allowable limits
- deemed trust investments – these are investments in related trusts that satisfy the conditions of the SISR so that they are deemed not to be in-house assets
- any other investment with a related party that is not an in-house asset.

The definition of a related party is contained in subsection 10(1) of SISA.

### 30 VALUE OF LEASED ASSETS

Show at **E**, **F** and **G** the value of the fund's assets that are leased or subject to a lease arrangement.

#### NOTE

The value of leased assets are shown (if applicable) at:

- item **28 Financial information**, or
- item **29 In-house and related party assets**.

### 31 HAS THE FUND ACQUIRED ASSETS (OTHER THAN EXEMPT ASSETS) FROM A RELATED PARTY?

Exempt assets include business real property, listed securities, and assets that would be in-house, but for a regulator-approved exemption.

Print **Y** for yes or **N** for no at **F1**.

### 32 LIABILITY INFORMATION

#### Members' entitlements

Show at **A** the total amount relating to:

- total vested benefits, in the case of defined benefit funds, or
- accrued benefits, in the case of accumulation funds. This is generally equal to the sum of all the members' benefit accounts – that is, not just vested amounts – plus any amounts not yet allocated to the member account.

#### Borrowings

Show at **A** the total amount of borrowings by the fund, including accrued interest, at the fund's balance date.

#### NOTE

SMSFs are prohibited from borrowing except in certain limited circumstances. Trustees should refer to the fact sheet *Self managed superannuation funds – investment strategy and investment restrictions*, available on our website.

#### Other liabilities

Show at **C** any other liabilities of the fund – including any tax liability.

### 33 FUND EXPENDITURE

#### Benefit payments

Show at **D** the total of benefit payments made during the year.

#### Outward rollovers and transfers

Show at **E** the total amounts transferred out of the fund directly by a member, or on account of a member, to another superannuation fund, retirement savings account provider, ADF or deferred annuity.

### Administration and investment expenses

Show at **F** all expenses of an investment management and administrative nature – for example, audit fees. Do not include investment management fees associated with unithised investment instruments – for example, PSTs – where these amounts are reflected in the net earnings from these products.

#### Other expenses

Show at **G** any other expenses not already included at item **33**.

If the calculation of the other expenses results in a negative amount as a consequence of tax effect accounting, print **N** in the box at the right of the amount at **G**.

### 34 CONTRIBUTION INFORMATION

#### Non-taxable contributions

Show at **F1** the total amount of non-taxable contributions – for example, a member's contributions for which they were not claiming tax deductions under section 82AAT of ITAA 1936, government super co-contributions and eligible spouse contributions.

#### Inward rollovers and transfers

Show at **F1** the total amounts transferred directly into the fund by a member, or on account of a member, from another superannuation fund, retirement savings account provider, ADF or deferred annuity for the relevant income year.

### TRUSTEE DECLARATION

For trustees of SMSFs the signing of this declaration confirms that the fund has satisfied the SISA regulatory requirements.

Include in the declaration a signature, date, contact name and telephone number for the trustee.

#### NOTE

Trustees of non-self managed superannuation funds lodge a separate annual regulatory return with APRA.

### TAX AGENT'S DECLARATION

If the agent is a partnership or a company, this declaration is signed in the name of the partnership or company by a person who is registered as a nominee of that partnership or company.

That person's name is also printed at this item.

# APPENDIXES

## APPENDIX 1 CHECKLIST FOR SELF-MANAGED SUPERANNUATION FUNDS

### Purpose

This checklist is designed to draw your attention to those details that you, as a trustee of a self-managed superannuation fund (SMSF), must be aware of in the day-to-day operation of your fund.

A fund that is complying with the rules is taxed at 15%.

This checklist is intended only as a guide. Compliance of your fund is a matter which can only be determined at a given point in time, on all the facts as presented at that time.

### How to use the checklist

The checklist highlights some of the more important rules under SISA that you, as a trustee, must comply with.

If, when using the checklist, you identify that you may have a problem with your fund or need more information, the following sources may assist you:

- Seek advice from your recognised tax adviser.
- Visit our website at [www.ato.gov.au/super](http://www.ato.gov.au/super)
- Get faxed information by phoning **13 28 60**.
- Phone the Superannuation Infoline on **13 10 20**.

### Checklist

#### Purpose of fund

My fund is managed and maintained by the trustees in accordance with the sole purpose test – for example, the sole purpose of the fund is to provide retirement benefits for members.

All the trustees of my fund are aware that they are responsible for the fund's compliance. This is so, even when external advice is sought – for example, from a tax agent, financial planner, investment adviser.

Contravention of the sole purpose test is a very serious matter. It can result in up to five years imprisonment or a fine of up to \$220,000 for trustees. In addition, the fund may lose the advantage of concessional tax rates in which case the assets of the fund (less the value of any undeducted contributions) will be taxed at 47%.

If you think you may have contravened the sole purpose test you are urged to speak to your accountant or adviser or the Tax Office for help.

#### Trust deed

My fund's trust deed:

- is properly executed
- states the name of the fund
- includes a statement that the fund must appoint a corporate trustee or includes a statement that the sole or primary purpose of the fund is to provide old-age pensions.

It also sets out:

- who the trustees are
- how trustees are appointed and how they can be removed from the fund
- the powers of the trustees.
- that the members agree to act as trustees

Deeds may also cover:

- that the members agree to act as trustees
- confirmation that the trustees are not 'disqualified persons'
- that trustees cannot accept payment for services as trustees
- paying benefits to members
- what contributions the fund can accept
- who can be members
- winding up the fund.

Overall:

- I have read and understand my trust deed.
- I know the deed sets out the rules that all the trustees of the fund must comply with.

**Note:** As a trustee, you are bound by your deed and responsible for any contravention of the rules set out in the deed. Therefore, it is very important that you know the contents of the deed.

#### Trustees and members – funds with two to four members

My fund is an SMSF because:

- there are four or fewer members in the fund
- all members of the fund are trustees of the fund (or directors of the trustee company)
- each individual trustee of the fund, or director of the trustee company, is a member of the fund
- no member of the fund is an employee of another member of the fund, unless those members are related
- no trustee of the fund receives any remuneration for his or her services as a trustee.

### Trustees and members – single member fund

My fund is a SMSF because:

- the member is the sole director of the trustee company, or
- the member is related to the other director of the trustee company (and there are only two directors of that company), or
- the member is not an employee of the other director of the trustee company (and there are only two directors of that company), or
- the member is one of only two trustees, of whom one is the member and the other is a relative of the member, or
- the member is one of only two trustees and the member is not an employee of the other trustee,
- no trustee of the fund receives any remuneration for their services as a trustee.

There are some exceptions to these general rules – for example, where a member is under a legal disability.

### Electing to be regulated

An election that SISA is to apply to the fund was lodged with the Tax Office within 60 days of establishing the fund.

A fund must elect to be a regulated superannuation fund and comply with the requirements of SISA to ensure it is a complying superannuation fund. If it does not, the fund may not receive concessional taxation treatment or other sanctions may be imposed on the trustees of the fund for contravening SISA where the fund is a regulated superannuation fund.

### Tax file number

The fund has its own tax file number.

### Australian business number

The fund has its own Australian business number (ABN). Although it is not compulsory that your fund has its own ABN, it may be beneficial to the fund to obtain an ABN.

### Separate bank account

This is very important to prevent the fund contravening the SISA rules and also assists trustees in preserving and protecting their retirement income.

### Accepting contributions

The trustees are aware of the SISA rules which relate to gainful employment and age restrictions for accepting contributions.

The trustees are aware that funds can only accept contributions in accordance with their fund's deed. The deed can also impose restrictions on the fund's ability to accept contributions, so trustees need to decide what contributions they wish to accept and to ensure the fund's deed allows those contributions to be accepted.

The trustees are also aware they cannot accept contributions from related parties in the form of assets other than money (known as 'in specie' contributions) except assets which are expressly allowed to be acquired from related parties under SISA.

### According to my trust deed, the fund:

- can accept contributions from a member's employer
- can accept contributions from members
- can accept rollover payments
- can accept contributions in respect of a member's non-working spouse
- can accept contributions in respect of minors.

### Investment strategy

My fund has a medium to long term investment strategy that considers:

- a wide range of investment possibilities including, for example, such things as:
  - cash based, low risk investments
  - growth investments – for example, shares
  - combinations of investment types
- the return on investments compared with risks involved
- the ease of converting assets to cash in order to meet payments due by the fund
- members' ages and individual retirement benefit needs
- overall, the aim of my fund's strategy is to increase members' benefits over time.

Contravention of the requirement to have an acceptable investment strategy can result in the trustees being fined or sued for loss or damages. The fund can lose its compliance status and, as a result, its concessional rate of tax.



## Investing

- The assets of the fund are kept separate at all times from those of:
  - the members
  - the trustees, and
  - related employers.
- Each member has a separate account in the fund.
- The fund's accounting and banking records are kept entirely separate from those of members, trustees and employers.
- All transactions by the fund are conducted on a strict commercial basis.
- The fund can demonstrate that market value has been paid and received on all transactions.

These requirements are very important to prevent the fund:

- 1 contravening the sole purpose test, and
- 2 exposing the members' retirement benefits to unnecessary risk.

## Investment restrictions

The trustees can demonstrate that they have not:

- lent money to or provided financial assistance using the resources of the fund to a member or member's relative
- borrowed money
- acquired assets from 'related parties' of the fund (Related parties include all members of the fund and their associates and all employer sponsors of the fund and their associates.)
- leased, loaned or invested more than 5% of the fund's total assets in related parties of the fund. These assets are known as 'in house assets'.

**Note:** There are limited exceptions to the above restrictions and trustees should read the fact sheet *Self managed superannuation funds – investment strategy and investment restrictions* (NAT 2063), available on our website, for a more detailed explanation.

## Keeping of records

The trustees keep accounting records which:

- comply with accounting guidelines for true and accurate accounts
- provide an accurate record of the true financial position of the fund
- will assist an approved auditor in reviewing the financial statements and preparing the annual financial and SISA compliance audit certificate
- will help members understand their retirement benefits
- will be kept for five years.

## Wherever possible, responsible accounting practices will be adopted by the trustees, such as:

- joint signatories to signing of cheques
- separating of accounting functions – for example, receipts and payments
- segregation of duties.

## Adopting responsible accounting practices:

- protects the assets of the fund
- guards against fraud
- implements good internal audit practices
- assists the approved auditor with the annual auditing of financial records
- may reduce the time spent and the costs incurred in preparing the above records, and
- will help protect the members' retirement benefits.

## The trustee must keep for 10 years:

- minutes of all meetings
- records of changes of trustees
- records of changes of directors, if corporate trustees
- written consents by members to be appointed as trustee
- a hard (paper) copy of all tax returns and other returns lodged electronically with the Tax Office.

Penalties apply if trustees fail to keep the records listed above for the required period.

## Paying a benefit

The trustees:

- will only pay benefits in accordance with SISA, Superannuation Industry (Supervision) Regulations 1994 (SISR) and the trust deed of the fund
- are aware that SISA sets payment standards based on events such as reaching a certain age and termination of employment, and can place restrictions on how a benefit can be paid.

All paperwork in relation to the following will be completed:

- eligible termination payments (ETPs)
- withholding tax from ETPs and superannuation pensions and annuities and remitting the tax to the Tax Office
- reasonable benefit limits.

Benefits should be checked for accuracy, before payment. The payment standards of SISA work with the sole purpose test and the preservation rules to ensure monies are only paid to members in appropriate circumstances.

## Annual requirements

The trustees will:

- appoint an approved auditor to examine the records at the end of the financial year
- lodge the fund income tax and regulatory return with the Tax Office by the due date
- pay the supervisory levy and the fund's tax liability, when due
- comply with surcharge requirements
- comply with member contribution reporting requirements.

Penalties apply for failing to meet the annual requirements listed above.

## Tax matters

Records will be kept by the trustees in relation to:

- deductions claimed for administrative and operating expenses of the fund
- sales and purchases of assets for capital gains tax purposes
- tax file numbers of members
- deductions claimed for the provision of death and disability benefits for members.

## APPENDIX 2 CAPITAL WORKS DEDUCTIONS

Division 43 of ITAA 1997 provides for a system of deducting capital expenditure incurred in the construction of capital works used to produce assessable income.

### Capital works

Construction costs in respect of the following capital works may be deducted:

- buildings or extensions, alterations or improvements to a building
- structural improvements or extensions, alterations or improvements to structural improvements
- environmental protection earthworks.

Deductions for construction costs must be based on actual costs incurred. If it is not possible to genuinely determine the actual costs, provide an estimate by a quantity surveyor or other independent qualified person. The costs incurred by the fund for the provision of this estimate are deductible as a tax-related expense, not as an expense in gaining or producing assessable income.

### Who can claim?

The fund can claim a deduction under Division 43 for an income year only if it:

- owns, leases or holds part of a construction expenditure area of capital works
- incurred the expense, and
- uses the building to produce income.

The area the fund owns, leases or holds is called 'your area'.

In calculating the fund deduction you must identify your area for each construction expenditure area of the capital works. Your area may comprise the whole of the construction area or part of it.

### Lessee of a building

A lessee can claim a deduction in respect of an area leased or held under a quasi-ownership right.

To claim a deduction:

- the lessee must have incurred the construction expenditure or been an assignee of the lessee who incurred the expenditure
- the lessee must have continuously leased or held the building itself, or the building must have been held in that way by previous lessees, holders or assignees since completion of construction, and
- the lessee must have used the building to produce assessable income.

If there is a lapse in the lease the entitlement to the deduction reverts to the building owner.

### Requirement for deductibility

A fund can deduct an amount for capital works in an income year if:

- the capital works have a 'construction expenditure area'
- there is a 'pool of construction expenditure' for that area, and
- the fund uses the area in the income year to produce assessable income.

### No deduction until construction is complete

A fund cannot claim a deduction for any period before the completion of construction of the capital works even though it used them, or part of them, before completion. Additionally, the deduction cannot exceed the undeducted construction expenditure for your area.

Capital works are taken to have commenced when the first step in the construction phase starts – for example, the pouring of foundations or sinking of pylons for a building.

### Establishing the deduction base

You can deduct expenditure for the construction of capital works if there is a construction expenditure area for the capital works.

Whether there is a construction expenditure area for the capital works and how it is identified depends on the following factors:

- the type of expenditure incurred
- the time the capital works commenced
- the area of the capital works to be owned, leased or held by the entity that incurred the expenditure, and
- for capital works begun before 1 July 1997, the area of the capital works that was to be used in a particular manner – see section 43-90 of ITAA 1997.

### Construction expenditure

Construction expenditure includes:

- preliminary expenses such as an architect fees, engineering fees, foundation excavation expenses and costs of building permits
- costs of structural features that are an integral part of the income-producing building or income-producing structural improvements – for example, lift wells and atriums
- some portion of indirect costs.

In relation to an owner-builder entitled to a deduction under Division 43, the value of the owner-builder's contributions to the works – that is, labour or expertise and any notional profit element – do not form part of construction expenditure. See *Taxation Ruling TR 97/25 – Property development: deduction for capital expenditure on construction of income producing capital works, including buildings and structural improvements* and its addendum TR 97/25A.

Construction expenditure does not include expenditure on:

- acquiring land
- demolishing existing structures
- clearing, levelling, filling, draining or otherwise preparing the construction site prior to carrying out excavation work

- landscaping
- plant
- property or expenditure for which a deduction is allowable or would be allowable if the property were for use for the purpose of producing assessable income under another specified provision of ITAA 1936 or ITAA 1997.

### Construction expenditure area

The construction of the capital works must be complete before the construction expenditure area is determined. A separate construction expenditure area is created each time an entity undertakes the construction of capital works.

For construction area expenditure before 1 July 1997, the capital works must have been constructed for a specified use at the time of completion, depending upon the time when the capital works commenced. The first specified use construction time was 22 August 1979 – see table 43-90 and subsection 43-75(2) of ITAA 1997.

### Pool of construction expenditure

The pool of construction expenditure is the portion of the construction expenditure incurred by a fund on capital works, which is attributable to the construction expenditure area.

### Deductible use

A fund can only claim a deduction under Division 43 if it uses the area in a way described in table 43-140 or 43-145 of Subdivision 43-D of ITAA 1997.

### Special rules about uses

Your area is taken to be used for a particular purpose or manner if:

- it is maintained ready for that use, is not used for another purpose and its use has not been abandoned, or
- its use has temporarily ceased because of construction or repairs or for seasonal or climatic conditions.

Your area is not accepted as being used to produce assessable income if:

- it is used for exhibition or display in connection with the sale of all or part of any building – other than a hotel or apartment building – and where construction began after 17 July 1985 but before 1 July 1997. If construction commenced after 30 June 1997, buildings that are used for display are eligible.
- it is used:
  - wholly or mainly for residential accommodation, or
  - for exhibition or display in connection with the sale of all or part of any building, or the lease of all or part of the building for use wholly or mainly for or in association with residential accommodation, and the building construction began after 19 July 1982 and before 18 July 1985
- the fund uses it for residential accommodation – and it is not a hotel or apartment building. See section 43-170(2) of ITAA 1997 for exceptions to this rule.

Your area is taken to be used as residential accommodation if it is:

- part of an individual's home – other than a hotel or apartment building
- used as a hotel, motel or guest house but does not satisfy the definition of a hotel building
- owned by a private company and is used, or reserved for use, as residential accommodation for a director or member of the company, or a spouse, parent or child of such a director or member.

Special rules for hotel and apartments are contained in section 43-180 of ITAA 1997.

### Calculation and rate of deduction

A fund's entitlement to a deduction begins on the date the building is first used to produce assessable income. The first and last years of use may be apportioned. The entitlement to a deduction runs for either 25 or 40 years – the limitation period – depending on the rate of deduction applicable.

The legislation contains two calculation provisions:

- section 43-215 of ITAA 1997 – deductions for capital works which began before 27 February 1992
- section 43-210 of ITAA 1997 – deduction for capital works which began after 26 February 1992.

### Capital works begun before 27 February 1992 and used as described in table 43-140 of ITAA 1997

Calculate the deduction separately for each part that meets the description of your area.

Multiply the construction expenditure by the applicable rate – either 4% if the capital works were begun after 21 August 1984 and before 16 September 1987 or 2.5% in any other case – and by the number of days in the income year in which you owned, leased or held your area and used it in a relevant way. Divide that amount by the number of days in the income year.

Apportion the amount if your area is used only partly to produce assessable income.

The amount the fund claims cannot exceed the undeducted construction expenditure.

### Capital works begun after 26 February 1992

Calculate the deduction separately for each part of capital works that meets the description of your area.

There is a basic entitlement to a rate of 2.5% for parts used as described in table 43-140 **Current year use**. The rate increases to 4% for parts used as described in table 43-145 **Use in the 4% manner**.

### Undeducted construction expenditure

The undeducted construction expenditure for your area is the part of the construction expenditure that remains to write off. It is used to work out:

- the number of years in which the fund can deduct amounts for construction expenditure, and
- the amount that the fund can deduct under section 43-40 of ITAA 1997 if your area or a part of it is destroyed.

### Balancing deduction on destruction

If a building is destroyed or damaged during an income year, you can claim a deduction for the remaining amount of undeducted construction expenditure that has not yet been deducted, less any compensation received.

If the destruction or demolition is voluntary, the entitlement to a deduction is unaffected.

You can claim the deduction in the income year in which the destruction occurs. The deduction is reduced if the capital works are used in an income year only partly for the purpose of producing assessable income.

For guidelines issued by the Commissioner on these measures, see Taxation Ruling 97/25 and addendum.

### APPENDIX 3 SUMMARY OF SPECIAL RESPONSIBILITIES OF TRUSTEES

The following is a summary of special responsibilities trustees have in the preparation of fund returns.

- The fund must have a governing trust deed or a constituent document.
- The fund must ensure that all assets are in the name of the trustee of the fund.
- The fund must elect to become a regulated fund under SISA and:
  - obtain an APRA or Tax Office notice of compliance
  - get evidence that compliance has been sought and is expected to be granted for the year, or
  - retain a notice of compliance from a previous year provided the fund has not since received a notice of non-compliance.
- If the fund operates under a substituted accounting period (SAP), the fund must get proof that we have approved the SAP.
- If a CGT event has happened to a CGT asset that the fund acquired prior to 1 July 1988, the fund must keep records of the market value or the original cost used for the cost base as at 30 June 1988.
- The fund must keep separate records of private company dividends, certain trust distributions or other excessive non-arm's length income.
- The fund must keep records of all foreign source income and calculation of foreign tax credits.
- In relation to contributions the fund must keep records of:
  - contributions received from employers and employees or depositors
  - rollover notifications to verify untaxed elements where rollovers are received.
- The fund must keep records of how contributions excluded from income are determined under subsection 274(7) of ITAA 1936. If pre 1 July 1988 funding credits are claimed, the fund must obtain a notice under section 342 of SISA (or as formerly known an APRA section 15D notice) or keep evidence that the notice has been sought.
- The fund must keep records of notices received excluding member or depositor contributions. If the contributions tax liability is transferred, the fund must obtain evidence in writing of an agreement signed by the transferor and the transferee.
- In relation to deductions the fund must keep records of expenditure and to what income it relates. If a potential detriment deduction is claimed, the fund must keep records of how the claim was calculated and obtain the relevant actuarial certificates. It must also keep evidence that the benefit of the deduction is passed on to the dependant.
- If premiums for death and disablement cover are claimed, where relevant, the fund must keep a copy of the policy or actuarial certificate.
- If a future service element deduction is claimed, the fund must keep evidence of the calculation and full details of the relevant ETPs.

For more information on trustees duties and responsibilities, trustees of SMSFs should see the guide *Self managed superannuation funds – role and responsibilities of trustees* (NAT 11032), available on our website.

## APPENDIX 4 SUPERANNUATION FUND RATES OF TAXATION

The following rates of tax apply to superannuation funds, ADFs and PSTs for the current income year.	Rate %
<p><b>Superannuation funds certified by APRA or the Tax Office as complying with superannuation fund conditions</b></p> <ul style="list-style-type: none"> <li>■ assessed on income, including realised capital gains, tax deductible contributions received and any net previous income <span style="float: right;"><b>15</b></span></li> <li>■ assessed on private company dividends (including non-share dividends) unless the Commissioner is of the opinion that the dividends are not special income, certain trust distributions and non-arm's length income – see <b>Net private company dividends and other excessive non-arm's length income</b> on page 23. <span style="float: right;"><b>47</b></span></li> </ul>	
<p><b>Superannuation funds not certified by APRA or the Tax Office as complying with superannuation fund conditions</b></p> <ul style="list-style-type: none"> <li>■ assessed on income, including realised capital gains, tax deductible contributions received and any net previous income <span style="float: right;"><b>47</b></span></li> </ul>	
<p><b>ADFs certified by APRA as complying with ADF conditions</b></p> <ul style="list-style-type: none"> <li>■ assessed on income, including realised capital gains and certain rollover deposits <span style="float: right;"><b>15</b></span></li> <li>■ assessed on non-arm's length income, private company dividends (including non-share dividends) unless the Commissioner is of the opinion that the dividends are not special income and certain distributions from trusts – see <b>Net private company dividends and other excessive non-arm's length income</b> on page 23. <span style="float: right;"><b>47</b></span></li> </ul>	
<p><b>ADFs not certified by APRA as complying with ADF conditions</b></p> <ul style="list-style-type: none"> <li>■ assessed on income, including realised capital gains and certain rollover deposits <span style="float: right;"><b>47</b></span></li> </ul>	
<p><b>Unit trusts certified by APRA as complying with conditions for PSTs</b></p> <ul style="list-style-type: none"> <li>■ assessed on income, including realised capital gains and any liability attached to tax deductible contributions transferred from investing funds <span style="float: right;"><b>15</b></span></li> <li>■ assessed on non-arm's length income, private company dividends (including non-share dividends) unless the Commissioner is of the opinion that the dividends are not special income and certain distributions from trusts – see <b>Net private company dividends and other excessive non-arm's length income</b> on page 23. <span style="float: right;"><b>47</b></span></li> </ul>	

## APPENDIX 5 THIN CAPITALISATION

The thin capitalisation provisions reduce certain expenditure (called 'debt deductions') incurred in obtaining and servicing debt, where the debt used to finance the Australian operations of the trust fund exceeds the limits set out in Division 820 of ITAA 1997. These rules ensure that entities fund their Australian assets with an appropriate amount of debt.

### Do the thin capitalisation rules apply ?

The thin capitalisation rules will apply to a fund if:

- the fund is an Australian resident and either:
  - the fund, or any of its associate entities, is an Australian controller of an Australian controlled foreign entity (explained below) or carries on business overseas at or through a permanent establishment, or
  - the fund is foreign controlled, either directly or indirectly (see below), or
- the fund is a foreign resident, and carries on business in Australia at or through a permanent establishment, or otherwise has assets that produce assessable income.

However, the thin capitalisation rules will **not** apply if:

- the fund's debt deductions (combined with the debt deductions of its associate entities) do not exceed \$250,000 in the income year, or
- in the case of an Australian fund which is not foreign controlled, the combined value of the fund's average Australian assets and the average Australian assets of its associates comprise at least 90% of the value of the total assets of the fund and those associates.

The rules measuring control take into account both direct and indirect interests that the fund holds in the other entity (or vice versa) and the direct and indirect interests that associate entities of the fund hold in the other entity.

This means that an Australian fund can be an Australian controller of an Australian controlled foreign entity even if it holds a direct interest of less than 50% in the foreign entity.

Additionally, an Australian trust is foreign controlled where a foreign entity is in a position to control the trust.

### What if the thin capitalisation rules are breached?

If the thin capitalisation rules are breached, some of the fund's debt deductions may be denied. The amount denied will reduce the amounts shown at item **9b** on page 4 of the fund return, usually at one or more of **A**, **B**, **L** or **D**. In addition, the question at **Q Thin capitalisation** item **18** is answered **Y** for yes.

### What if the thin capitalisation rules apply ?

If the thin capitalisation rules apply, or you need further information, please see the *Guide to thin capitalisation*, available on our website. If the thin capitalisation rules apply, the fund must complete the *Thin capitalisation schedule 2006*, available through our electronic lodgment service (ELS). Alternatively, complete a paper version of the schedule and post it to:

**Australian Taxation Office**  
**PO Box 1365**  
**ALBURY NSW 2640**

You may need to refer to the *Guide to the debt and equity tests* to determine whether you have a debt interest for thin capitalisation purposes.

### Thin capitalisation transitional provision

Under a transitional provision you can choose to calculate your thin capitalisation position using Australian accounting standards as they existed on 31 December 2004 (section 820-45 of the *Income Tax (Transitional Provisions) Act 1997*).

If you choose to use the transitional provision, you should indicate this choice on the *Thin capitalisation schedule 2006*. For more information visit our website [www.ato.gov.au](http://www.ato.gov.au)

# ABBREVIATIONS

AAT	Administrative Appeals Tribunal	RBL	reasonable benefit limit
ABN	Australian business number	SAF	small APRA fund
ADF	approved deposit fund	SFN	superannuation fund number
APRA	Australian Prudential Regulation Authority	SHA	superannuation holding accounts special account
CFC	controlled foreign company	SIC	shortfall interest charge
CGT	capital gains tax	SIS	<i>Superannuation Industry (Supervision) Act 1993</i> and Superannuation Industry (Supervision) Regulations 1994
Commissioner	The Commissioner of Taxation	SISA	<i>Superannuation Industry (Supervision) Act 1993</i>
DDR	direct debit request	SISR	Superannuation Industry (Supervision) Regulations 1994
DVS	direct value shifting	SMSF	self-managed superannuation fund
EFT	electronic funds transfer	TAA	<i>Taxation Administration Act 1953</i>
ELS	electronic lodgment service	TFN	tax file number
ETP	eligible termination payment	Trust Loss Act	<i>Taxation Laws Amendment (Trust Loss and Other Deductions) Act 1998</i>
FBT	fringe benefits tax	UBNT	ultimate beneficiary non-disclosure tax
FIF	foreign investment fund		
FLP	foreign life policies		
FTD	family trust distribution		
FTP	file transfer protocol		
fund	superannuation fund, approved deposit fund and pooled superannuation trust		
GIC	general interest charge		
GST	goods and services tax		
GVSR	general value shifting regime		
IRU	Indefeasible rights to use international submarine cable systems		
ITAA	<i>Income Tax Assessment Act</i>		
IVS	indirect value shifting		
IWT	interest withholding tax		
LIC	listed investment company		
MCS	member contributions statements		
PAYG	pay as you go		
PDF	pooled development fund		
PST	pooled superannuation trust		



# PUBLICATIONS, TAXATION DETERMINATIONS AND RULINGS

## Publications

- *Application for ABN registration for superannuation entities* (NAT 2944)
- *Change of details for superannuation entities* (NAT 3036)
- *Capital allowances schedule 2006* (NAT 3424–6.2006)
- *Capital allowances schedule instructions 2006* (NAT 4089–6.2006)
- *Capital gains tax (CGT) schedule 2006* (NAT 3423–6.2006)
- *Family trust election and/or family trust revocation 2006* (NAT 2787–6.2006)
- *Foreign income return form guide* (**available at [www.ato.gov.au](http://www.ato.gov.au)**)
- *Foreign investment funds guide* (**available at [www.ato.gov.au](http://www.ato.gov.au)**)
- *General value shifting regime in brief* (NAT 8933)
- *Guide to capital gains tax 2006* (NAT 4151–6.2006)
- *Guide to depreciating assets 2006* (NAT 1996–6.2006)
- *Guide to the debt and equity tests* (**available at [www.ato.gov.au](http://www.ato.gov.au)**)
- *Guide to the functional currency rules* (**available at [www.ato.gov.au](http://www.ato.gov.au)**)
- *Guide to the general value shifting regime* (**available at [www.ato.gov.au](http://www.ato.gov.au)**)
- *How to claim a foreign tax credit 2006* (NAT 2338–6.2006)
- *Income Tax Assessment Act 1936*
- *Income Tax Assessment Act 1997*
- *Income Tax Regulations 1936*
- *Interposed entity election 2006* (NAT 2788–6.2006)
- *Legislative Instrument registered on the Federal Register of Legislative Instruments* (available at **[www.frli.gov.au](http://www.frli.gov.au)**)
- *Losses schedule 2006* (NAT 3425–6.2006)
- *Losses schedule instructions 2006* (NAT 4088–6.2006)
- *New International Tax Arrangements (Managed Funds and Other Measures) Act 2005*
- *New International Tax Arrangements (Foreign Owned Branches and Other Measures) Act 2005*
- *Non-individual PAYG payment summary schedule 2006* (NAT 3422)
- *PAYG Payment summary – withholding where ABN not quoted* (NAT 3283)
- *Payment summary – foreign resident withholding*
- *Schedule 25A 2006* (NAT1125–6.2006)
- *Schedule 25A instructions 2006* (NAT 2639–6.2006)
- *Self managed superannuation funds audit report* (NAT 11466)
- *Self managed superannuation funds – instructions for completing an auditor/actuary contravention report* (NAT 11299)
- *Self managed superannuation funds – investment strategy and investment restrictions* (NAT 2063)
- *Self managed superannuation funds – Role and responsibilities of approved auditors* (NAT 11375)
- *Self managed superannuation funds – Role and responsibilities of trustees* (NAT 11032)
- *Small Superannuation Accounts Act 1995*
- *Superannuation Industry (Supervision) Act 1993*
- *Superannuation Industry (Supervision) Act 1993*
- *Auditor/actuary contravention report* (NAT 11239)
- *Superannuation Industry (Supervision) Regulations 1994*
- *Superannuation Legislation Amendment Act (No 4)*
- *Superannuation member contribution statement (MCS) instruction guide* (NAT 2603)
- *Supervisory levy payment advice* (**available at [www.ato.gov.au](http://www.ato.gov.au)**)
- *Taxation Administration Act 1953*
- *Taxation Administration Regulations 1976*
- *Taxation Laws Amendment (Trust Loss and Other Deductions) Act 1998* (Trust Loss Act)
- *Thin capitalisation guide* (NAT 4461) (**available at [www.ato.gov.au](http://www.ato.gov.au)**)
- *Thin capitalisation schedule 2006* (NAT 6458–6.2006)
- *Thin capitalisation schedule instructions 2006* (NAT 6458–6.2006)
- *Trans Tasman imputation: How to claim Australian franking credits attached to New Zealand dividends* (NAT 10851–6.2006)

## Taxation determinations and taxation rulings

- |            |   |
|------------|---|
| IT 2624    | Company self-assessment; elections and other notifications; additional (penalty) tax; false or misleading statement   |
| TD 98/27   | Is a deduction allowable to complying superannuation funds under section 279 of the <i>Income Tax Assessment Act 1936</i> (ITAA 1936), for insurance premiums attributable to the provision of benefits for members in the event of temporary disability longer than two years? |
| TD 1999/6  | What is the purpose of sections 279E and 289A of the <i>Income Tax Assessment Act 1936</i> (ITAA 1936)?   |
| TD 2005/21 | What are the thresholds and limits for superannuation amounts in 2005–2006?   |
| TR 96/7    | Record keeping – section 262A – general principles  |
| TR 97/25   | Property development: deduction for capital expenditure on construction of income producing capital works, including buildings and structural improvements  |
| TR 2000/18 | Depreciation effective life   |
| TR 2005/9  | Record keeping – electronic records   |

## LODGMENT

The only postal address for lodgment of the *Fund income tax and regulatory return 2006* is:

**Australian Taxation Office  
GPO Box X2229  
PERTH WA 6847**

The address must appear as shown above.

**Do not post payments to this address;** for payment information see **PAYMENT** below.

If you wish to write to the Tax Office send your correspondence to:

**Superannuation Business Line  
PO Box 277  
WORLD TRADE CENTRE VIC 8005**

## PAYMENT

### Payment slip

Use the two separate payment slips we provide to pay the actual amount of tax payable and the annual levy for SMSFs.

### Payment options

You can make payments by several different methods. We prefer payments by electronic means. Payments can be made electronically by **BPAY®**, direct debit or direct credit. However, payments can also be posted to us or made at Australia Post outlets. Payments cannot be made in person at a Tax Office branch or shopfront. **We do not accept** payment by credit card.



**BPAY®** allows you to transfer funds from your cheque or savings accounts to us using your financial institution's phone or internet banking service. You can make most tax payments by using BPAY.

To make a payment quote the Tax Office biller code **(75556)** and use your EFT code as your customer reference number. Your EFT code is the string of numbers found immediately above the barcode on your payment slip. This slip is included in the reminder letter we sent you about the due date for income tax payment and lodgment of your tax return.

Your EFT code is also provided on the 'Payment options –details' screen (for business and tax agent portal users) or immediately below the biller code and titled EFT code, on the details screen of your ECI e-BAS (where access is available).

A receipt number is issued at the time the payment is made. Please record for future reference.

You should check with your financial institution for processing deadlines, to ensure your payments reach us on or before the due date. BPAY payments made out of hours, on a weekend or public holiday **will not reach us** until the next working day.

If you need assistance locating or identifying the EFT code please phone **1800 815 886**, or email **payment@ato.gov.au**

For more information about BPAY payments, contact your financial institution.

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## Direct credit

Direct credit allows you to transfer funds electronically from your cheque or savings account using online banking facilities. To make a payment to us you will need the following information about us:

**Bank** Reserve Bank of Australia  
**BSB no.** 093 003  
**Account no.** 316 385

### Account name ATO direct credit account

To ensure your payment is recorded correctly to your Tax Office account, you must record your EFT code in the direct entry system lodgment reference or description field. Your EFT code is the string of numbers found immediately above the bar code on your payment slip.

You should check with your financial institution for processing deadlines, to ensure your payments reach us on or before the due date. Direct credit payments made out of hours, on a weekend or public holiday **will not reach us** until the next working day.

For more information about direct credit payments please visit [www.ato.gov.au](http://www.ato.gov.au) or phone **1800 815 886** or email [payment@ato.gov.au](mailto:payment@ato.gov.au)

## Direct debit

Direct debit provides you with the option of having your tax liability electronically debited from a nominated financial institution account (excluding credit card accounts).

To establish a direct debit, you need to complete and send a *Direct debit request* (NAT 2284) to us. The request gives us permission to debit your nominated financial institution account. It can be printed and sent by a tax agent using ELS software, or you can order one yourself by phoning **1800 802 308**. Tax agents and business portal users can also send requests to us via the portal's messaging facility.

Send your completed request to:

**Electronic Funds Transfer Section  
Australian Taxation Office**

Mail: **PO Box 665**

**Moonee Ponds VIC 3039**

Fax: **(03) 9275 4240**

Please note that the direct debit request must be signed by you. We must receive it at least five working days before the first debit transaction.

For more information about direct debit payments please visit [www.ato.gov.au](http://www.ato.gov.au) or phone **1800 802 308**, or email [eft-information@ato.gov.au](mailto:eft-information@ato.gov.au)

## Mail

You can mail a cheque or money order with the payment slip we sent you, to the address printed on the payment slip.

If a payment slip is not available, you can post payments to the appropriate address below. Include your full name, address, type of payment and ABN or TFN. Do not write your TFN on any cheques.

For NSW, ACT and QLD clients please send payments to:

**Australian Taxation Office  
Locked Bag 1793  
PENRITH NSW 1793**

For WA, SA, NT, TAS and VIC clients please send payments to:

**Australian Taxation Office  
Locked Bag 1936  
ALBURY NSW 1936**

Pins, staples, paper clips or adhesive tape should not be used.

Cheques and money orders should be for amounts in Australian dollars and payable to the 'Deputy Commissioner of Taxation'. Cheques should be crossed 'not negotiable' and must not be postdated.

To avoid incurring penalties for late payment you should allow sufficient time for your payment to reach us on or before the due date.

For more information about mail payments please phone **1800 815 886** or email [payment@ato.gov.au](mailto:payment@ato.gov.au)

## In person – at a post office

If you have a pre-printed payment slip with a barcode, you can pay in person at any Australia Post outlet. Photocopies of payment slips are not accepted. Payments can be made by cash, EFTPOS or cheque, up to \$3,000 for cash and EFTPOS payments. Cheques should be for amounts in Australian dollars and payable to the 'Deputy Commissioner of Taxation'. They should be crossed 'not negotiable' and must not be postdated. You will get a receipt for any payment made in person at an outlet.

EFTPOS is available at most outlets. However, payments can only be made using your savings or cheque account. The amount of the payment is also limited to the daily cash withdrawal amount permitted by your financial institution.

For more information on any payment method please phone **1800 815 886** or email [payment@ato.gov.au](mailto:payment@ato.gov.au)

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