

**BUSINESS**

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**Australian Government**

**Australian Taxation Office**

# Family trust election and/or family trust revocation 2006

Election form and explanatory notes for 1 July 2005 – 30 June 2006



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# EXPLANATORY NOTES FOR THE FAMILY TRUST ELECTION AND/OR FAMILY TRUST REVOCATION 2006

## WHEN TO USE THE FAMILY TRUST ELECTION AND/OR FAMILY TRUST REVOCATION 2006

Trustees must use the *Family trust election and/or family trust revocation 2006* for:

- making a family trust election in accordance with section 272-80 of Schedule 2F to the *Income Tax Assessment Act 1936* (ITAA 1936) specifying the 2004–05 or 2005–06 income year, or
- revoking a family trust election from a time in the 2005–06 income year in accordance with subsections 272-80(6) to (8) of Schedule 2F to ITAA 1936 (fixed trusts only).

### NOTE

The *Family trust election and/or family trust revocation 2006* cannot be used to revoke a family trust election from a time in an income year other than the 2005–06 income year.

## CONDITIONS FOR MAKING A FAMILY TRUST ELECTION

### Where specifying the 2005–06 income year

To make a family trust election specifying the 2005–06 income year, the trust must pass the family control test in section 272-87 of Schedule 2F to ITAA 1936, at the end of that income year (see subsection 272-80(4) of Schedule 2F to ITAA 1936). However, the election will only be in force from the earliest time (**the election commencement time**) in the 2005–06 income year from which the trust passes the family control test, continuously until the end of that income year (see subsection 272-80(10) of Schedule 2F to ITAA 1936).

A trust can only have one family trust election in force (see subsection 272-80(11) of Schedule 2F to ITAA 1936). However, trustees can make a family trust election and one or more interposed entity elections in accordance with section 272-85 of Schedule 2F to ITAA 1936.

### Where specifying the 2004–05 income year

For the 2005–06 and later income years trustees are able to make family trust elections specifying an earlier income year provided certain conditions are met. Generally these conditions require that from the beginning of the specified income year until 30 June of the income year immediately preceding that in which the election is made:

- the trust passes the family control test in section 272-87 of Schedule 2F to ITAA 1936, and
- any conferral of present entitlement to, or any actual distributions of, income or capital during that period have been made on or to the individual specified in the election or members of that individual's family group (see subsection 272-80(4A) of Schedule 2F to ITAA 1936).

As subsection 272-80(4A) of Schedule 2F to ITAA 1936 applies to elections specifying the 2004–05 year or a later income year, trustees using the *Family trust election and/or family trust revocation 2006* to make a family trust election can specify the 2004–05 income year provided the above conditions are met.

## CONDITIONS FOR REVOKING A FAMILY TRUST ELECTION

A family trust election is irrevocable unless the family trust is a fixed trust at the beginning of the specified income year and the trust satisfies **all** the other conditions set out in subsections 272-80(6) to (8) of Schedule 2F to ITAA 1936.

## HOW TO COMPLETE THE FAMILY TRUST ELECTION AND/OR FAMILY TRUST REVOCATION 2006

Complete section **A** if the trustee(s) is making a family trust election specifying the 2004–05 or 2005–06 income year.

Trustees must provide **all** the information required in section **A** for a family trust election specifying the 2004–05 or 2005–06 income year to be made in accordance with section 272-80 of Schedule 2F to ITAA 1936.

### NOTE

Make sure to write either 2005 or 2006, as appropriate, in the 'income year specified' box at item **5** of section **A**.

Complete section **B** if the trustee(s) is revoking a family trust election from a specified time in the 2005–06 income year. Trustees must provide **all** the information required for a family trust election to be revoked in accordance with subsections 272-80(6) to (8) of Schedule 2F to ITAA 1936.

Although it is not an offence not to quote a tax file number (TFN), any TFN required on this form is information which the Commissioner requires within the meaning of subsection 272-80(3) of Schedule 2F to ITAA 1936. If a TFN of a person or entity is required on the *Family trust election and/or family trust revocation 2006* and the relevant person or entity does not have a TFN, print **X** in the box provided.

Where the *Family trust election and/or family trust revocation 2006* is being used to make a family trust election, every trustee of the trust must sign and date the form at the time the family trust election is made. If a trustee is a company, the company public officer must sign for that corporate trustee.

Where the *Family trust election and/or family trust revocation 2006* is being used to revoke a family trust election, every trustee of the trust at the time:

- the 2006 tax return for the trust is lodged, or
  - the *Family trust election and/or family trust revocation 2006* is required to be given to the Commissioner,
- must sign and date the form.

The *Family trust election and/or family trust revocation 2006* must be signed prior to the time:

- the 2006 tax return for the trust is lodged, or
- the *Family trust election and/or family trust revocation 2006* is required to be given to the Commissioner.

If a trustee is a company, the company public officer must sign for that corporate trustee.

## HOW TO REVOKE A FAMILY TRUST ELECTION USING THE FAMILY TRUST ELECTION AND/OR FAMILY TRUST REVOCATION 2006

### Where the 2006 tax return is required

If the trustee(s) is using the *Family trust election and/or family trust revocation 2006* to revoke a family trust election, and is required to lodge a 2006 tax return, the trustee(s) must include the form as part of that tax return for the trust. Send the completed tax return including the *Family trust election and/or family trust revocation 2006* to:

**Australian Taxation Office**  
PO Box 9990  
Penrith NSW 2740

If trustees need more time to lodge the 2006 tax return with a *Family trust election and/or family trust revocation 2006*, they should write to the Commissioner requesting an extension of time within which to lodge the return under section 388-55 of the *Taxation Administration Act 1953*, and stating the reasons for the delay and the proposed date for lodging the return for the trust, including the form.

### Where the 2006 tax return is not required

If the trustee(s) is using the *Family trust election and/or family trust revocation 2006* to revoke a family trust election, and is not required to lodge a 2006 tax return, the trustee(s) must give the form to the Commissioner no later than two months after the end of the 2005–06 income year for the trust. Send the completed *Family trust election and/or family trust revocation 2006* to:

**Australian Taxation Office**  
PO Box 9990  
Penrith NSW 2740

If trustees are not required to lodge a 2006 tax return and they need more time to give the Commissioner the *Family trust election and/or family trust revocation 2006*, they should write to the Commissioner before the due date requesting a deferral under subparagraph 272-80(7)(b)(ii) of Schedule 2F to ITAA 1936, stating the reasons for the delay and the proposed date for giving the Commissioner the form.



# Family trust election and/or family trust revocation 2006

Please print neatly in BLOCK LETTERS with a black or blue ballpoint pen only.

Tax file number (TFN) of the trust

You must provide all the information required in Section A to ensure a family trust election specifying the 2004–05 or 2005–06 income year is made in accordance with section 272-80 of Schedule 2F to the *Income Tax Assessment Act 1936* (ITAA 1936). You must provide all the information required in Section B if a family trust election is to be revoked from a date in the 2005–06 income year in accordance with subsections 272-80(6)–(8) of Schedule 2F to ITAA 1936 (fixed trusts only). If there is not enough space on the form to properly answer any item, or if an item requires further information to be provided, attach a separate sheet of paper with the additional information.

## Section A Family trust election specifying the 2004–05 or 2005–06 income year

### 1 Full name and current postal address (including country – if outside Australia) of trust for which the family trust election is made.

Full name of the trust

Current postal address of the trust   
  
Suburb or town State Postcode  
Country – if not Australia

### 2 If the name and/or the postal address for the trust identified in item 1 of Section A has changed since its last tax return (if any) was lodged, print it exactly as shown on the last notice of assessment or the last tax return lodged.

Full name of the trust as shown on last notice of assessment or last tax return lodged

Postal address of the trust as shown on last notice of assessment or last tax return lodged   
  
Suburb or town State Postcode  
Country – if not Australia

### 3 Was the central management and control of the trust outside Australia at any time during the period from the election commencement time (see items 5 and 6 of Section A) until the time the election is made (relevant period)?

Print Y for yes or N for no.

If you printed Y, specify the time(s) at which central management and control was outside Australia.

Full period

Print F in the box if the central management and control of the trust was outside Australia at all times during the relevant period OR specify the time(s) during the relevant period at which central management and control of the trust was outside Australia.

If more than two time periods are to be specified, attach a separate sheet of paper with details of the additional time periods.

from  to   
from  to

**4 Full name, TFN, current postal address and residency details of every trustee of the trust from the election commencement time until the time the election is made (relevant period).  
Where any trustee is a company, the Australian company number (ACN) or Australian registered body number (ARBN) of each such trustee is also required.**

If there were more than two trustees of the trust during the relevant period, attach a separate sheet of paper with all the information required for each additional trustee.

TFN of trustee

OR

Print **X** in the box if the trustee does not have a TFN.

TFN of trustee

OR

Print **X** in the box if the trustee does not have a TFN.

**If the trustee is an individual**

Title – for example, Mr, Mrs, Ms, Miss

Surname or family name

Given names

**If the trustee is an individual**

Title – for example, Mr, Mrs, Ms, Miss

Surname or family name

Given names

**If the trustee is a company**

Name

ACN/ARBN\* \*Cross out whichever is not applicable.

**If the trustee is a company**

Name

ACN/ARBN\* \*Cross out whichever is not applicable.

**Current postal address of the trustee**

Suburb or town

State  Postcode

Country – if not Australia

**Current postal address of the trustee**

Suburb or town

State  Postcode

Country – if not Australia

At any time during the relevant period was the trustee a non-resident for tax purposes?  Print **Y** for yes or **N** for no.

If you printed **Y**, specify the time(s) at which the trustee was a non-resident for tax purposes.

Print **F** in the box if the trustee was a non-resident for tax purposes at all times during the relevant period **OR Full period**

Specify the time(s) during the relevant period at which the trustee was a non-resident for tax purposes.

Day Month Year to Day Month Year

If more than one time period is to be specified, attach a separate sheet of paper with details of the additional time periods.

At any time during the relevant period was the trustee a non-resident for tax purposes?  Print **Y** for yes or **N** for no.

If you printed **Y**, specify the time(s) at which the trustee was a non-resident for tax purposes.

Print **F** in the box if the trustee was a non-resident for tax purposes at all times during the relevant period **OR Full period**

Specify the time(s) during the relevant period at which the trustee was a non-resident for tax purposes.

Day Month Year to Day Month Year

If more than one time period is to be specified, attach a separate sheet of paper with details of the additional time periods.

**5 Write 2005 or 2006 for the income year specified for the purposes of the family trust election. If the 2004–05 or 2005–06 income year of the trust specified for the purposes of this family trust election does not end on 30 June, state the substituted accounting period for that income year.**

Income year specified

Substituted accounting period

from Day Month Year to Day Month Year

**6 The election commencement time for the family trust election.**

Day Month Year

**Note:** Only complete this item if specifying the 2005–06 income year and if the family control test in section 272-87 of Schedule 2F to ITAA 1936 has **NOT** been satisfied at all times during the 2005–06 income year. In these circumstances, the election commencement time will be the earliest time from which the family control test was passed continuously until the end of the 2005–06 income year. In all other circumstances the election commencement time is the first day of the income year specified in item 5 of Section A.

**7 Full name, TFN, date of birth and current address of principal place of residence (including country – if outside Australia) of the individual (specified individual) whose family group is taken into account in relation to the family trust election.**

**Note:** Only one individual can be specified.

TFN of the specified individual	<input type="text"/>	<b>OR</b>	<input type="checkbox"/> Print <b>X</b> in the box if the specified individual does not have a TFN.
	Title – for example, Mr, Mrs, Ms, Miss		
Full name of the specified individual	<input type="text"/>	Date of birth of the specified individual	<input type="text"/>
	Surname or family name	Given names	
Current address of principal place of residence of the specified individual	<input type="text"/>		
	Suburb or town	State	Postcode
	Country – if not Australia		

**Note:** Only complete Section B if revoking a family trust election otherwise go to Declaration on page 4.

**Section B Family trust revocation – only for fixed trusts revoking in accordance with subsections 272–80(6)–(8)**

**1 Full name, TFN and current postal address (including country – if outside Australia) of the trust for which the family trust election referred to in items 3 and 4 of Section B is being revoked.**

Full name of the trust	<input type="text"/>
Current postal address of the trust	<input type="text"/>
	Suburb or town
	State
	Postcode
	Country – if not Australia

Insert the TFN in the box at the top of page 1.

**2 The later time under paragraph 272-80(6)(b) of Schedule 2F to ITAA 1936 from which the family trust election referred to in items 3 and 4 of Section B ceases to be in force.**

Day	Month	Year
<input type="text"/>	<input type="text"/>	<input type="text"/>

**3 The income year for which the details of the election being revoked were included in the tax return for the trust or given to the Commissioner as required under subsection 272-80(2) of Schedule 2F to ITAA 1936 or sub-items 22(4) or 22A(4) of Schedule 1 to Taxation Laws Amendment (Trust Loss and Other Deductions) Act 1998.**

Income year
<input type="text"/>

**4 Specify the income year exactly as it appears in item 5 of Section A of the relevant Family trust election and/or family trust revocation included in the tax return for the trust or given to the Commissioner for the income year identified in item 3 of Section B, and the current TFN of the individual specified in that election.**

Income year	<input type="text"/>	TFN of the specified individual	<input type="text"/>	<b>OR</b>	Print <b>X</b> in the box if the <b>specified individual</b> does not have a TFN.	<input type="checkbox"/>
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**5 Full name, TFN and current postal address of any company, partnership or trust which has an interposed entity election in force in respect of the trust and the specified individual identified in items 1 and 4 of Section B. In the case of a company, also provide the ACN or ARBN.**

TFN of the *company/partnership/trust	<input type="text"/>	<b>OR</b>	Print <b>X</b> in the box if the *company/partnership/trust does not have a TFN.	<input type="checkbox"/>
Full name of the *company/partnership/trust including ACN	<input type="text"/>			
	ACN/ARBN*	<input type="text"/>		
	* Cross out whichever is not applicable			
Current postal address of the *company/partnership/trust	<input type="text"/>			
	Suburb or town	State	Postcode	
	Country – if not Australia			

\* Cross out whichever is not applicable.

If there was more than one company, partnership or trust which has an interposed entity election in force in respect of the trust and the specified individual identified in items 1 and 4 of Section B, attach a separate sheet of paper with all the information required above for each additional company, partnership or trust.

**Declaration:**

I/We\* declare that all the information required has been provided in this form and any attachments to this form, and that the information provided is true and correct in every detail, and

- \*i that the trustee(s)\* is/are\* making a family trust election specifying the 2004–05 or 2005–06 income year, the details of which are set out above, for the purposes of section 272-80 of Schedule 2F to ITAA 1936 and that the trustee(s)\* is/are\* able to make the election in accordance with that section, or
- \*ii that the trustee(s)\* is/are\* revoking a family trust election from a time in the 2005–06 income year, the details of which are set out above, for the purposes of subsections 272-80(6)–(8) of Schedule 2F to ITAA 1936 and that the trustee(s)\* is/are\* able to revoke the election in accordance with those subsections.

\* Cross out whichever is not applicable.

**Full name of the trustee(s) at the time the family trust election is made or, where this form is being used to revoke a family trust election, the time the 2005-06 tax return is lodged with this form or this form is required to be given to the Commissioner.**

**Note:** If Section A is required to be completed, the name of the trustee(s) must be written exactly as it appears in item 4 of Section A.

**If the trustee is an individual**

Title – for example, Mr, Mrs, Ms, Miss

Surname or family name

Given names

**If the trustee is an individual**

Title – for example, Mr, Mrs, Ms, Miss

Surname or family name

Given names

**If the trustee is a company**


**If the trustee is a company**


Signature of the trustee or, if the trustee is a company, the signature of the public officer of the corporate trustee

Signature of the trustee or, if the trustee is a company, the signature of the public officer of the corporate trustee

Date declaration made

Day	Month	Year

Date declaration made

Day	Month	Year

If there are more than two trustees of the trust at the time the family trust election is made or, where this form is being used to revoke a family trust election, the time the 2005–06 tax return is lodged with this form or this form is required to be given to the Commissioner, attach a separate sheet of paper with the above details and signature for each additional trustee.

**For more information, see *Explanatory notes for the family trust election and/or family trust revocation 2006* on the inside front cover.**

**Hours taken to prepare and complete this form**  (See notes below)

The Tax Office is committed to reducing the costs of complying with the taxpayer’s taxation obligations. By completing this item you will help us to monitor these costs as closely as possible. When completing this item the trust should consider the time, rounded up to the nearest hour, which the trust (including the trustees) spent:

- reading the instructions
- collecting the necessary information to complete this form
- making any necessary calculations, and/or
- actually completing this form.

- Notes:**
1. The answer should reflect the time both your business and tax agent spent preparing and completing this form. This includes the time spent by any other person whose assistance was obtained in doing this, such as an employee of the business.
  2. If this form is lodged with the 2005–06 tax return, the answer should be included in the time box provided in the tax return.