

Interposed entity election or revocation 2010

Election form and explanatory notes for 1 July 2009 – 30 June 2010

WHEN TO USE THE INTERPOSED ENTITY ELECTION OR REVOCATION 2010

The trustees, company or partners must use the *Interposed entity election or revocation 2010* for:

- making an interposed entity election in accordance with section 272-85 of Schedule 2F to the *Income Tax Assessment Act 1936* (ITAA 1936) specifying a day in the 2004–05 or later income year, or
- revoking an interposed entity election effective from the 2009–10 income year in accordance with subsections 272-85(5A), (5C) and (6) of Schedule 2F to the ITAA 1936.

CONDITIONS FOR MAKING AN INTERPOSED ENTITY ELECTION

Where specifying the 2009–10 income year

To make an interposed entity election specifying a day in the 2009–10 income year, the trust (including fund), company or partnership must pass the family control test in section 272-87 of Schedule 2F to the ITAA 1936 at the end of that income year – see subsection 272-85(4) of Schedule 2F to the ITAA 1936. However, the interposed entity election will only be in force from the **election commencement time**, being the later of the specified day and the earliest time in the 2009–10 income year from which the trust (including fund), company or partnership passes the family control test continuously until the end of that income year – see subsection 272-85(6B) of Schedule 2F to the ITAA 1936.

The trustees, company or partners can make an interposed entity election in accordance with section 272-85 of Schedule 2F to the ITAA 1936 that the trust (including fund), company or partnership be included in the family group of the individual specified in a family trust election in respect of more than one



If you wish to revoke an interposed entity election, use the *Interposed entity election or revocation 2010* only for the 2009–10 income year.



For more information visit www.ato.gov.au



trust, provided the individual specified in each family trust election is the same. See subsection 272-85(7) of Schedule 2F to the ITAA 1936. They must complete a separate *Interposed entity election or revocation 2010* for each interposed entity election specifying a day in the 2009–10 income year.

Where specifying the 2004–05 or later income year

For the 2005–06 and later income years, the trustees, a company or partners can make interposed entity 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 the one in which the election is made:

- the company, partnership or trust (including fund) passes the family control test in section 272-87 of Schedule 2F to the ITAA 1936, and
- any conferrals of present entitlement to, or any actual distributions of, income or capital of the trust during that period have been made on or to the individual specified in the family trust election by reference to which the interposed entity election is made or members of that individual's family group – see subsection 272-85(4A) of Schedule 2F to the ITAA 1936.

As subsection 272-85(4A) of Schedule 2F to the ITAA 1936 applies to elections specifying an income year before the income year in which the election is made, trustees, companies and partners using the *Interposed entity election or revocation 2010* to make an interposed entity election can specify the 2004–05 or later income year, provided the above conditions are met.

CONDITIONS FOR REVOKING AN INTERPOSED ENTITY ELECTION

Under legislative changes that took effect on 1 July 2007, an interposed entity election can be revoked in certain limited circumstances. See subsection 272-85(5A) of Schedule 2F to the ITAA 1936. Generally, an interposed entity election can be revoked if, at the election commencement time, the interposed entity was, or at a later time it becomes, a member of the family group of the individual specified in the family trust election. This may occur where the interposed entity:

- is a trust and has made a family trust election with the same specified individual as the family trust in respect of which the interposed entity election was made. In accordance with subsection 272-90(3A) of Schedule 2F to the ITAA 1936, family trusts with the same specified individual will be members of each other's family group without having to make interposed entity elections in respect of each other, or
- is, or becomes, wholly owned by members of the family of the individual specified in the family trust election in accordance with subsection 272-90(5) of Schedule 2F to the ITAA 1936, and therefore is a member of the family group without the need for an interposed entity election.

HOW TO COMPLETE THE INTERPOSED ENTITY ELECTION OR REVOCATION 2010

Write the tax file number (TFN) of the trust, fund, company or partnership in the space provided.

All trusts, funds, companies or partnerships using the *Interposed entity election or revocation 2010* must complete items **1**, **2** and **4**, and item **3** if it applies.

If the trustees, company or partners are making an interposed entity election specifying the 2004–05 or later income year, complete section A. The trustees, company or partners must provide **all** the information required in section A for an interposed entity election specifying a day in the 2004–05 or later income year to be made in accordance with section 272-85 of Schedule 2F to the ITAA 1936.

NOTE

When making an interposed entity election, make sure you write either **2005**, **2006**, **2007**, **2008**, **2009** or **2010** (as appropriate) in the '**Income year specified**' box at item **7** of section A.

If the trustees, company or partners are revoking an interposed entity election, and the revocation will be effective from the 2009–10 income year, complete section B. The trustees, company or partners must provide all the information required in section B for an interposed entity election to be revoked in accordance with subsections 272-85(5A), (5C) and (6) of Schedule 2F to the ITAA 1936.

Although it is not an offence not to quote a TFN, any TFN required on this form is information which the Commissioner requires within the meaning of subsection 272-85(3) of Schedule 2F to the ITAA 1936. If the TFN of a person or entity is required on the *Interposed entity election or revocation 2010* and the relevant person or entity does not have a TFN, print **X** in the box provided.

Where the *Interposed entity election or revocation 2010* is being used to make an interposed entity election, every trustee of the trust (including fund), the company's public officer or every partner of the partnership (as applicable) must sign and date the form at the time the interposed entity election is made. If a trustee or partner is a company, the company's public officer must sign for that corporate trustee or partner.

Where the *Interposed entity election or revocation 2010* is used to revoke an interposed entity election, every trustee of the trust (including fund), the company's public officer or every partner of the partnership must sign and date the form at the time:

- the 2010 tax return for the trust, fund, company or partnership is lodged with this form, or
- the *Interposed entity election or revocation 2010* is required to be given to the Commissioner.

If a trustee or partner is a company, the company's public officer must sign for that corporate trustee or partner.

HOW TO MAKE OR REVOKE AN INTERPOSED ENTITY ELECTION

To make an interposed entity election, complete the *Interposed entity election or revocation 2010*. It can be sent to the Commissioner at the address below.

To revoke an interposed entity election where the 2010 tax return for the trust, fund, company or partnership is required, complete the *Interposed entity election or revocation 2010*. This must be included as part of the tax return and sent to the address below.

To revoke an interposed entity election where the 2010 tax return for the trust, fund, company or partnership is not required, complete the *Interposed entity election or revocation 2010*. You must send it to the address below no later than two months after the end of the 2009–10 income year for the trust, fund, company or partnership.

If you need more time to revoke the election, with or without the 2010 tax return, write to the Commissioner before the due date requesting an extension of time, stating the reasons for the delay and the proposed date for lodging the form and/or tax return.

Send your completed form and/or tax return to:

**Australian Taxation Office
GPO Box 9845
IN YOUR CAPITAL CITY**



Interposed entity election or revocation

2010

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

Tax file number (TFN) _____
of the trust, company or partnership

To make or revoke an interposed entity election in accordance with section 272-85 of Schedule 2F to the *Income Tax Assessment Act 1936* (ITAA 1936), you must complete items 1 and 2, item 3 if it applies, item 4 and the declaration on page 4. You must also complete section A for an **election** or section B for a **revocation**. If you don't have enough space to complete an item, or if an item requires you to provide further information, attach a separate sheet of paper with the additional information.

1 Are you using this form for an election or a revocation? Print **E** for election or **R** for revocation.

2 Full name and current postal address (including country – if outside Australia) of the trust (including fund), company or partnership for which the interposed entity election or revocation is made (interposed entity). In the case of a company, also provide the Australian company number (ACN) or Australian registered body number (ARBN).

Full name of the interposed entity (trust, company or partnership) _____
ACN/ARBN* _____
* Cross out whichever is not applicable

Current postal address of the interposed entity _____
Suburb or town _____ State _____ Postcode _____
Country – if not Australia _____

3 If the name and/or the postal address for the trust (including fund), company, or partnership identified in item 2 above 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 interposed entity (trust, company or partnership) as shown on last notice of assessment or last tax return lodged _____

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

4 Interposed entity election – entity code Print **C** for company, **P** for partnership, **T** for trust or **F** for fund.

Section A Interposed entity election specifying a day in the 2004–05 or later income year

5a If the interposed entity is a trust (including fund), was the central management and control of the trust outside Australia at any time during the period from the election commencement time (see items 7 and 8) 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 one time period is to be specified, attach a separate sheet of paper with details of the additional time periods. from Day Month Year to Day Month Year

5b If the interposed entity is a company, was the company a non-resident for tax purposes at any time during the period from the election commencement time (see items 7 and 8) 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 the company was a non-resident for tax purposes. Full period

Print **F** in the box if the company was a non-resident for tax purposes at all times during the relevant period **OR** specify the time(s) during the relevant period at which the company was a non-resident for tax purposes.

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

6 If the interposed entity is a trust (including fund) or partnership, provide the full name, TFN, current postal address and residency details of every trustee of the trust or partner of the partnership respectively during the period from the election commencement time (see items 7 and 8) until the time the election is made (relevant period). Where any trustee or partner is a company, the ACN or ARBN of each such trustee or partner is also required.

If there was more than one trustee of the trust or partner of the partnership during the relevant period, attach a separate sheet of paper with all the information required for each additional trustee or partner.

TFN of trustee or partner

OR

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

If the trustee or partner is an individual

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

Surname or family name

Given names

If the trustee or partner is a company

Name

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

Current postal address of the trustee or partner

Suburb or town

State

Postcode

Country – if not Australia

At any time during the relevant period was the trustee or partner 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 or partner was a non-resident for tax purposes.

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

Full period

OR

Specify the time(s) during the relevant period at which the trustee or partner 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 in relation to the trustee or partner.

7 Write the four-digit, 2005 or later, income year specified for the purposes of the interposed entity election. If the specified income year does not end on 30 June, state the substituted accounting period for that specified income year.

Write also the day specified in that income year for the purposes of the election. Note that a day must be specified for an election to be made.

Income year specified

Day specified

Day Month Year

from

Substituted accounting period

Day Month Year

to

Day Month Year

8 The election commencement time for the interposed entity election.

Day Month Year

Note: Only complete this item if specifying the 2009–10 income year and if the family control test in section 272-87 of Schedule 2F to the ITAA 1936 has NOT been satisfied at all times during the 2009–10 income year from the day specified in item 7. In these circumstances, the election commencement time will be the later of the earliest time from which the family control test was passed continuously until the end of the 2009–10 income year and the beginning of the day specified in item 7.

9 Full name, TFN and current postal address (including country – if outside Australia) of the family trust in respect of which the interposed entity election in this form is made.

TFN of the family trust **OR** Print **X** in the box if the family trust does not have a TFN.

Full name of the family trust

Current postal address of the family trust

Suburb or town State Postcode

Country – if not Australia

Note: If an interposed entity election is made in respect of more than one family trust a separate *Interposed entity election or revocation 2010* must be completed for each election in respect of each family trust.

10 The income year specified in the family trust election for the trust identified in item 9 which specifies the individual identified in item 11 AND the election commencement time for that election. If the family trust's specified income year does not end on 30 June, state the substituted accounting period for that income year.

Income year specified in the family trust election Election commencement time for the family trust election Day Month Year from Day Month Year to Day Month Year Substituted accounting period of the family trust

Note: The specified income year and the election commencement time shown here must correspond exactly to the details provided in section A of the relevant family trust election that has been lodged or given to the Commissioner for the family trust identified. If no date was specified on the relevant family trust election, leave the election commencement time box at this item blank.

11 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 for the trust identified in items 9 and 10, and in whose family group the interposed entity is electing to be included.

TFN of the specified individual **OR** Print **X** in the box if the specified individual does not have a TFN.

Date of birth of the specified individual Day Month Year

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

Full name of the specified individual Surname or family name Given names

Current address of principal place of residence of the specified individual Suburb or town State Postcode Country – if not Australia

Note: Only complete section B if revoking an interposed entity election otherwise go to Declaration on page 4.

Section B Interposed entity revocation

12 Full name, TFN and current postal address (including country – if outside Australia) of the family trust in respect of which the interposed entity election in this form is being revoked.

TFN of the family trust

Full name of the family trust

Current postal address of the family trust

Suburb or town State Postcode

Country – if not Australia

13 The income year from which the revocation is to be effective. Income year

Note: If revoking an interposed entity election in respect of more than one family trust, a separate *Interposed entity election or revocation 2010* must be completed for each election being revoked in respect of each family trust.

Declaration:

I/We declare that all the information required has been provided on this form and any attachments to this form, and that the information provided is true and correct in every detail, and that the trustee(s)/company/partners is/are making or revoking an interposed entity election, the details of which are set out above, for the purposes of section 272-85 of Schedule 2F to the ITAA 1936 and that the trustee(s)/company/partners is/are able to make or revoke the election in accordance with that section.

Full name of the trustee(s)/the company public officer/the partners at the time the election is made.

Note: If the election is being made for a trust (including fund) or partnership, the name of the trustee or partner must be written exactly as it appears at item 6.

If an individual

Title – for example, Mr, Mrs, Ms, Miss Surname or family name

Given names

If the trustee or partner is a company

Name

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

Date declaration made

Day	Month	Year

If there is more than one trustee of the trust or partner of the partnership at the time the election is made, attach a separate sheet of paper with the above details and signature for each additional trustee or partner.

For more information, see the explanatory notes for the *Interposed entity election or revocation 2010*.

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

The Tax Office is committed to reducing the costs of complying with your taxation obligations.

By completing this item you will help us to monitor these costs as closely as possible.

When completing this item the trust, company or partnership should consider the time, rounded up to the nearest hour 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, such as an employee of the business.
2. If this form is lodged with the 2010 tax return, the answer should be included in the time box provided on the tax return.