

Assessing and recording distribution income 043-04050030

Currently published version valid from 11/10/2024 1:41 AM

Background

s22

For Complex Assessment Officer (CAO) use only

This document details processes for determining how income from a trust or company is distributed to stakeholders and how distribution income is recorded. Different rules apply to an approved Special Disability Trust (SDT). This procedure does not cover SDTs.

Distribution income

Distribution income is the actual distribution from a private trust or a dividend payment from a private company made to a stakeholder. This includes distributions or dividends paid to another related entity (private trust or company). This payment is on the private trust distribution statement or private company dividend statement. For a private trust, the distribution statement is part of the trust tax return. It lists the name and Tax File Number (TFN) and/or date of birth of each beneficiary (if under 18 years of age) allocated with a distribution in that financial year and the amount of the distribution to each. For a company, as well as a profit and loss statement, there may be a schedule outlining the dividends paid to shareholders. It is declared as cents per share or as a percentage.

Distribution income is disregarded in some situations, this is so double counting does not occur. The circumstances are:

- Distributions or dividends made from prior year profits to controllers are not assessed as they are paid out of the retained profits (capital) of the entity
- Where a customer is a controller and receives an actual distribution or dividend payment, any distributions received that are less than the attribution income amount are not assessed as income. If there are multiple controllers and a controller receives income from an entity **less than** the attributed amount, that is, less than the percentage of the entity attributed to the individual, the amount of income **less than** the attributable amount is to be treated as a gift from the controller and the deprivation rules are to apply. For example, controller A and controller B (who are not partnered) are each attributed with 50% of the income and assets of a company. The company makes a profit of \$10,000, \$7,000 is distributed to controller A and \$3,000 is distributed to controller B. Because controller B has been distributed with less than their attribution income, they are considered to have gifted \$2,000
- Only distributions (that are not paid from prior year profits) in excess of the customer's **attribution income amount** are assessed as distribution income
- Distributions paid to genuine investors and non-controllers are assessed as income for those persons as prescribed by section 1073 of the Social Security Act 1991)

- Where an entity is attributed with control of a subsidiary entity, and receives a distribution from it, then the distribution will not be counted as part of the assessable income of the principal entity. The attributable income of the subsidiary entity becomes the principal entity's attributed income, which when combined with its own assessable income, becomes the attributable income of the principal entity. By ensuring the distribution is not counted as part of the principal entity's assessable income, double counting is avoided

Other distribution income rules specific to controllers and non-controllers include:

- Distributions or dividends which represent transfers of entity assets, sometimes known as 'capital transfers', and if paid to non-controllers will not be assessed as income of the non-controller. An example of this is the transfer of a car to a non-controller. However, dividends paid out of prior year profits, which had as their source ordinary income or capital gains of the entity, will be assessed as income under section 1073 of the Social Security Act 1991 for any non-controllers
- When an entity ceases trading or winds up, the attribution income can be set to zero. In addition, the distribution income for a controller and their partner can also be set to zero. Where a controller ceases involvement with an entity the attribution income can be set to zero and any final distribution received is not assessed, but any distribution received prior to severing ties is assessed for 52 weeks under section 1073 of the Social Security Act 1991
- Where a controller requests a reassessment based on an estimate of the attributable income of an entity, and the estimate is accepted, it will be necessary to adjust the distributions made to the controller (and their partner if they are not a controller), if any, to an estimated amount
- Distribution income for **non-controllers** will continue to be assessed as income for 52 weeks in all circumstances even when the entity has ceased trading or wound up or the customer is no longer involved with the entity under section 1073 of the Social Security Act 1991
- Distributions may be excluded from an assessment as a lump sum under section 1073 of the Social Security Act 1991 when the amount was received periodically (for example, fortnightly or monthly) or the customer can demonstrate they were paid in lieu of wages. For the non-controller beneficiary they will be assessed when received and not at the end of the financial year as a lump sum. For the controller of the trust, it will still form part of the attributable income but disregard gifting if they were paid in lieu of wages
- If the customer is advising the distributions were paid either periodically or in lieu of wages, refer to relevant [Level 2 Policy Helpdesk](#) for assistance

Distributions and Family Domestic Violence (FDV)

Customers may be affected by family and domestic violence. The [Family and Domestic Violence Support Model](#) has information to help identify and support customers.

The Social Security Act 1991 (the Act) does not contain specific provisions to enable assessable income to be disregarded due to hardship caused by FDV. For non-attributable stakeholders, distributions/dividends received from private trusts/companies are included in an income

support recipient's income. Distribution or dividend amounts are included for a period of 52 weeks from the date the customer is legally entitled to receive the distribution.

s47E(d)

Assessment of capital gains

The assessment of capital gains (that is, resulting from the sale of an asset) will be assessed as follows:

- for controllers capital gains from normal trading (for example, sale of shares, managed investments on a regular basis) will be assessed but not one-off sale of assets (for example, sale of a factory or a work vehicle)
- for non-controllers all capital gains will be assessed as income along with other distributions of profit

When capital gains are assessed, usually (but not always), the capital gain will be included on the financial statements of the trust or company.

Under the Social Security Act, when assessing attributed and distributed income, all of the capital gain is assessed without any discount, indexation or any other amount that is allowed under the Income Tax Assessment Act. For example, 50% capital gain discount or prior year capital losses.

Accordingly, CAOs will only be able to assess the whole capital gain from the full financial statements of the entity and identifying the whole capital gain.

Date of event for trust distributions from private trusts

A beneficiary is entitled to receive an amount under a private trust when the trustee exercises their power under the trust deed and makes a **resolution** to distribute in favour of the beneficiary. Allocations and distributions are assessed as income for 52 weeks under subsection 1073(1) from the date of the resolution to distribute, if the dollar amount is included in the resolution to distribute.

If the resolution to distribute states a percentage and not a specific amount, the beneficiary's legal entitlement to a distribution only commences from the date the amount is known. This is usually when the tax return is completed. The date the amount is known is the date of event.

There may be instances where a resolution to distribute a specific amount (for example \$10,000) has been made but the trust tax return has not been lodged at the time of resolution. Where this is the case, the onus is on the income support recipient to notify about the distribution. Distribution income should still be assessed from the date the resolution was made and not the date the tax return was lodged. See [Resources](#) for an example.

Distributions when resolution to distribute an amount is made, but total profit not known

Distributions from discretionary trusts when a resolution to distribute an amount of profit is made, but the total profit is not yet known

A person is entitled to receive the amount when they have an absolute vested interest in the amount and are legally able to demand payment of the amount. A person cannot demand payment of an unspecified amount and therefore is entitled to receive the amount only when a figure is specified.

Where there has been a resolution to distribute an unspecified amount, the distribution only becomes assessable when the person becomes entitled to legally demand a specific amount. See [Resources](#) for an example.

Gifting provisions when a distribution or dividend is paid to non-controller

Gifting provisions for controllers when a distribution or dividend is paid to a non-controller

Distribution or dividends paid to a **non-attributable** stakeholder after 1 July 2000 may be assessed as a gift from the attributable stakeholder(s), subject to their attribution percentage. The amount received by the non-attributable stakeholder is assessed as income for 52 weeks from the date of the resolution to distribute.

Exception: distributions paid to a non-attributable stakeholder will be disregarded under the gifting provisions for the attributable stakeholder if:

- the customer can show they were not in receipt of an income support payment and could not have reasonably known they would require income support at the time the distribution or dividend was paid, or
- the non-attributable stakeholder is a Genuine Investor and the distribution paid to the Genuine Investor is commensurate with their investment in the entity, or
- the distributions have been paid in lieu of wages

All distributions to controllers and non-controllers, including other trusts and companies, should be coded on the system. The system will pass the distribution amount to the customer's record and ensure any deprivation or gifting is calculated correctly.

Distributions to full or part controllers made from profits from previous years are not assessed as income and should not be coded.

Distributions to non-controllers made from profits from previous years are assessed as income and should be coded as they have their source from ordinary income or capital gains of the entity and accordingly the distributions will be assessed as income for the non-controller for 52 weeks from the date of resolution to distribute under section 1073 of the Social Security Act 1991.

Working Credit and Work Bonus

Distribution or dividends from a private trust or company are not employment income. The exception is when the distributions are considered to be paid in lieu of wages and coded as employment income. Ordinary income is used when calculating the accrual of working credits, but is unable to deplete the customer's Working Credit balance to offset this income. Work Bonus cannot be applied to distributions, dividends nor attribution income prior to 1 July 2019, unless the distributions are considered to be paid in lieu of wages and coded as employment income.

From **1 July 2019**, Work Bonus may be applied to distributions, dividends or attribution income received by a customer of Age Pension age and in receipt of income support payments (apart from PPS). Work Bonus will be applied only where the customer's role in the trust or company involves [personal exertion](#) (that is, the customer's direct involvement helps generate income for the entity). This could include such activities such as truck driving, book keeping, or sales.

Note: If the customer is receiving a wage or director's fees for a private trust or company, the customer can deplete their Working Credit balance to offset this employment income only. If the customer is eligible for Work Bonus any available balance can also offset this income.

[Resources](#) has a summary of how attribution and distribution income is assessed for trusts and companies.

Related links

[Assessing attribution income](#)

[Recording attribution income](#)

[Assessment of income from trusts and companies](#)

[Documents required to assess a private trust](#)

[Documents required to assess a private company](#)

[Special Disability Trust \(SDT\) - initial contact](#)

[Family and Domestic Violence](#)

Process

For Complex Assessment Officer (CAO) use only

This document details processes for determining how income from a trust or company is distributed to stakeholders and how distribution income is recorded. Different rules apply to an approved Special Disability Trust (SDT). This procedure does not cover SDTs.

On this page:

[Assessment and recording of trust and company distribution income](#)

[Family Domestic Violence](#)

Assessment and recording of trust and company distribution income

Table 1

Item	Description
1	Determining Trust/Company distribution amounts + Read more ...

	<p>Distribution amounts can be determined by examining the private trust's distribution or private company's dividend statement.</p> <p>Distribution amounts paid to an attributable stakeholder can be disregarded in some circumstances including:</p> <ul style="list-style-type: none"> • amounts already been included as attribution income • amounts from prior year profits <p>The gifting provisions in relation to distributions paid to a non-attributable stakeholder will be disregarded if:</p> <ul style="list-style-type: none"> • the customer can show they were not in receipt of an income support payment and could not have reasonably known they would require income support at the time the distribution or dividend was paid, or • the non-attributable stakeholder has been assessed as a Genuine Investor and the distribution paid to the Genuine Investor is commensurate with their investment in the entity, or • the distribution has been paid in lieu of wages <p>For the non-controller the distribution will be assessed as income for 52 weeks, unless it is determined the distribution was either paid periodically or in lieu of wages.</p> <p>Where the customer is advising the distribution has been paid periodically, refer these cases to the Level 2 Policy Helpdesk.</p> <p>Where the distribution has not been paid periodically and will be assessed as income for 52 weeks, (see Resources for an example), in Customer First create a manual review on the s47E(d)) screen and complete the fields as follows:</p> <p>s47E(d)</p>
--	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

The review will mature on the **Due Date** coded in the ^{s47E(d)} activity. Workload Management will allocate the review for manual action.

Where a controller ceases involvement with the entity, any distribution (excluding final distribution) received prior to severing ties, is assessed for 52 weeks (see [Resources](#) for an example). In **Customer First**, [create a manual review](#) on the ^{s47E(d)} screen and complete the fields as follows:

^{s47E(d)}

The review will mature on the **Due Date** coded in the ^{s47E(d)} activity. Workload Management will allocate the review for manual action.

Family Domestic Violence (FDV) + Read more ...

Customers may be affected by family and domestic violence. The [Family and Domestic Violence Support Model](#) has information to help identify and support customers.

^{s47E(d)}

	s47E(d)
2	<p>Recording Trust/Company distribution amounts + Read more ...</p> <p>Go to the s47E(d) screen and code the following fields:</p> <ul style="list-style-type: none"> • s47E(d) : record the date of the resolution to distribute s47E(d) • s47E(d) record the amount of the distribution in whole dollars s47E(d) • s47E(d) Code the Customer Reference Number (CRN). The distribution amount will pass through to that customer's record and display on the s47E(d) screen in the customers record. If the customer is also a controller of the trust/company only the distribution amount in excess of their attributed income will be treated as distribution income s47E(d)

	<div>s47E(d)</div> <div><ul style="list-style-type: none">• s47E(d) If the distribution amount is set to zero and the customer has received the final distribution, enter s47E(d)• s47E(d) If a Trustee or Director resolves to make multiple distributions to a customer within a financial year, each distribution will need to be assessed as income for a period of 52 weeks from the date of the resolution to distribute s47E(d)</div> <div><div>In Customer First, create a manual review on the s47E(d) screen in the trust record and complete the fields as follows: s47E(d)</div></div> <div>The review will mature on the s47E(d) coded in the s47 activity. Workload Management will allocate the review for manual action.</div>
--	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

	<p>This process will normally form part of coding of all an entity's income, assets and attribution details. As such, ensure distribution details are included when completing a DOC outlining the actions taken.</p> <p>The s47E(d) will display:</p> <ul style="list-style-type: none"> • the event date • the total distributions to non-genuine investors or non-concession amounts • the total distributions to genuine investors or concession amounts
3	<p>Work Bonus + Read more ...</p> <p>Is any linked customer of Age Pension age and is claiming or is in receipt of an Income Support Payment (other than PPS):</p> <ul style="list-style-type: none"> • Yes, go to Item 4 • No, go to Item 5
4	<p>Work Bonus income percentage to be updated + Read more ...</p> <p>An update to the Work Bonus income percentage is needed when:</p> <ul style="list-style-type: none"> • the trust or company is assessed for the first time • a percentage has not been previous recorded • a change in income earned from the customer's personal exertion has been identified. For example, the trust or company now has an employee who is undertaking work previously done by the customer <p>Is an update required?</p> <ul style="list-style-type: none"> • Yes: s47E(d)

	<ul style="list-style-type: none"> • No, go to Item 5
5	<p>Trust or company has been wound up and a non attributed beneficiary or shareholder only received a distribution within the last twelve months + Read more ...</p> <p>Any income distributions to customers, who are not attributed control of the trust or company, will need to be maintained as income for a period of 52 weeks from the date the trustee/director resolved to make the distribution. This may mean the trust or company cannot be coded as being wound up until the distributions cease to be assessable.</p> <p>The trust or company income, assets, liabilities and attribution should all be set to nil but any distributions to customers who are not attributed with control will be coded/remain on the ^{s47E(d)} screen until they cease to be assessable.</p> <p>In Customer First, create a manual review on the ^{s47E(d)} screen in the trust record and complete the fields as follows:</p> <p>^{s47E(d)}</p>

Family Domestic Violence

Table 2

Step	Action
1	<p>Family Domestic Violence (FDV) + Read more ...</p> <p>There are special provisions for customers experiencing Family Domestic Violence (FDV) where previous trust or company distributions affect their rate of income support payment (ISP) or entitlement to Low Income Health Care Card (LIC).</p>

	<p>In certain circumstances, Department of Social Services (DSS) may grant an exemption for distribution/dividend income. Complex Assessment Officers (CAO's) refer applications for an exemption to the Means Test Helpdesk for assessment.</p> <p>s47E(d)</p> <p>When the required information is gathered, go to Step 4.</p>
2	<p>Explicit authority from the customer to provide information to DSS, and for DSS to access their record + Read more ...</p> <p>To apply for the exemption, the customer needs to provide written authority to allow Services Australia to provide information and allow DSS to access their record to assess an exemption. s47E(d)</p> <p>s47E(d)</p>

	<p>Social workers identifying a customer may be eligible for exemption must request written authority when referring to a CAO. Go to Step 3.</p> <p>Where a CAO identifies the customer may be eligible for the exemption, they must discuss the requirement with the customer and advise they will be referred to a social worker. Go to Step 3.</p>
3	<p>Confirmation that customer is affected by FDV + Read more ...</p> <p>Complex Assessment Officers referral to social worker:</p> <p>A social worker assessment is needed to assess the customer circumstances to determine if they are affected by FDV.</p> <p>To refer the assessment, s47E(d)</p> <p>s47E(d)</p> <p>Has FDV been confirmed?</p> <ul style="list-style-type: none"> • Yes, continue with assessment • No, procedure ends here <p>Referral received from a Service Officer or social worker identifies customer impacted by distribution/dividend income:</p> <p>Where a current CAO assessment exists and the customer is impacted by distribution or dividend income and a social worker confirms the customer is impacted by FDV, the social worker will s47E(d)</p>
4	<p>s47E(d)</p>

	s47E(d)
5	<p>DSS exemption decision + Read more ...</p> <p>Has DSS granted an exemption?</p> <ul style="list-style-type: none"> • Yes, document the decision. Go to Step 6 • No, document the decision and tell the customer of the outcome. See Table 1 to assess the distributions
6	<p>Exemption granted + Read more ...</p> <p>For assessments where a distribution is recorded: s47E(d)</p> <p>For assessments where the distribution is not yet recorded, record details of the s47E(d) in the CAO report.</p> <p>In both instances, the CAO is required to contact the customer to advise:</p>

	<p>s47E(d)</p> <ul style="list-style-type: none"> requirements to notify of change in circumstances. s47E(d)
--	-----------------------------------------------------------------------------------------------------------------------------

References

Policy

[Social Security Guide, 4.12.7.40, Distributions of the Income of a Private Trust or Private Company to an Attributable Stakeholder](#)

[Social Security Guide, 4.12.7.50, Distributions of the Income of a Private Trust or Private Company to a Non-attributable Stakeholder](#)

[Social Security Guide, 1.1.L.140 Lump sum](#)

Legislation

Links to the Federal Register of Legislation site go to a 'Series' page. Select the 'Latest' version.

[Social Security Act 1991](#)

- section 1208R, Disposal of income by company or trust
- section 1073, Certain amounts taken to be received over 12 months

Resources

User Guides



[Assessment of attribution and distribution income for trusts and companies](#)

Contact details

[Income support means test team](#)

Discretionary trust assessment of distributions examples

Example	Description
1	Example of assessment of distributions from a private trust when there has been a resolution to distribute an unspecified amount of profit

	<p>A trustee makes a resolution on 30 June 2020 to make a profit distribution of \$700 to customer A, and total profit less \$700 to customer B.</p> <p>On October 1 2020, the accountant has determined the profit of the trust to be \$1,000 and advises the trustee.</p> <p>Customer A has a legally enforceable right to \$700 from 30 June 2020, therefore this amount is assessed from 30 June 2020.</p> <p>Customer B is assessed when their exact entitlement becomes known, so their \$300 is assessed from 1 October 2020.</p>
2	<p>Example of assessment of distributions from a private trust when there has been a resolution to distribute an estimated amount to the first beneficiary and the balance to the second beneficiary</p> <p>A trustee makes a resolution on 30 June 2020 to make a profit distribution of the first \$500 to customer A and the balance to customer B.</p> <p>On 1 October 2020, the accountant has determined the profit of the trust to be \$2,000 and advises the trustee.</p> <p>Customer A has a legally enforceable right to \$500 from 1 October 2020 when it is known that the trust can pay the \$500, therefore this amount is assessed from 1 October 2020.</p> <p>Customer B is assessed when their exact entitlement becomes known, so their \$1,500 is also assessed from 1 October 2020.</p>
3	<p>Example of date of event for trust distributions from a private trust where a resolution to distribute was made but the trust tax return has not been lodged at the time of resolution</p> <p>A resolution was made on 30 June 2020 stating specific dollar amounts to be distributed to beneficiaries, but the tax return was prepared on 1 October 2020.</p> <p>The income support recipient may know of the distribution prior to receipt or may be ignorant of the distribution until it is paid. In either case, assessment is from the date of resolution which is 30 June 2020.</p>
4	<p>Example of date of event for trust distributions from a private trust where a resolution to distribute was made showing a percentage of the net income to distribute to a beneficiary, and not a specific amount. The trust tax return has not been lodged at the time of resolution.</p> <p>A resolution was made on 30 June 2020 stating 30% of the income is to be distributed to Customer A, and 70% to Customer B. The tax return is prepared on 1 October 2020, and the net profit is only known on 1 October 2020.</p> <p>The date of event is 1 October 2020 as this is the date the exact amount is known and the date the customer has legal entitlement to the distribution.</p>

5	<p>Date of event to cease distributions held for 52 weeks</p> <p>To cease the assessment of a distribution which needs holding for 52 weeks.</p> <p>For example, for a distribution to be assessed for 52 weeks from 12 March 2020, apply the income to the customer's record from 12 March 2020 to 10 March 2021 inclusive. The Date of Event to cease the distribution is 11 March 2021. To calculate the 52 week period, use the date calculator below.</p>
---	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

External website

[Date Calculator: Add to or Subtract From a Date](#)

Training & Support

Add the course number to the s47E(d) field in the s47E(d) in ESSentials:

- s47E(d) - Trust and company financial assessments

Version	Version No.	Date	Description of content edited
Current	3.0	27/05/2021	Updated to meet accessibility standards and Version table added
Previous version	1.0	20/08/2014	New document

Assessment of attribution and distribution income for trusts and companies

Type of income or distribution	Income distribution	Income - capital gain from normal trading	Income - capital gain from sale of assets	Transfer of capital i.e. capital distributions *
Beneficiary pre 1/1/02	For 12 months see Note	For 12 months See Note	For 12 months see Note	exempt
Beneficiary on wind-up or ties severed pre 1/1/02**	exempt	exempt	exempt	exempt
Full/Part controller post 1/1/02***	For 12 months see Note	For 12 months see Note	exempt	exempt
Non Controller post 1/1/02	For 12 months see Note	For 12 months see Note	For 12 months see Note	exempt
Controller on windup post 1/1/02**	exempt	exempt	exempt	exempt
Controller - ties severed post 1/1/02				
Previous Distribution	For 12 months see Note	For 12 months see Note	exempt	exempt
Final Distribution	exempt	exempt	exempt	exempt
Non controller - windup or ties severed post 1/1/02	For 12 months see Note	For 12 months see Note	For 12 months see Note	exempt

Note: Refer to Social Security Act 1991, section 1073, Certain amounts taken to be received over 12 months for more information.

* 'Capital distributions' are direct transfers of entity assets to a person and are therefore exempt from being assessed as income. There will, however, be assets to be assessed against the recipient and possible deprivation against controllers post 1 January 2002.

** Windup includes where the entity suffers a permanent decline in its trading, e.g. where the business contained within the entity ceases to trade.

*** Where a controller requests a reassessment based on an estimate of the attributable income of an entity, and we accept this estimate; it will also be necessary to adjust the distributions made to the controller (and their marriage partner if they are not a controller), if any, to an estimated amount.