

Issue:

Year End 2011

Trust Distributions

# ROGERSON KENNY

## BUSINESS ACCOUNTANTS



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## Trust Distributions

### Beneficiaries Turning 18

Pursuant to the provisions of most trust deeds, the trustees of family trusts are usually required to determine to whom the net income of the trust will be distributed for the accounting period ending on 30 June prior to balance date. Where it is resolved to distribute to a beneficiary who has just turned 18 during the preceding financial year that beneficiary may not be included on our tax lodgment and extension list. Accordingly, if at 30 June 2011, you resolve to distribute trust income to a child born between **1 July 1992 and 30 June 1993**, it is important to advise us of such resolutions prior to 31 October 2011 to enable us to add the beneficiary to our tax lists and thus avoid penalties for late lodgment of the beneficiary's return. This comment also applies equally to any beneficiary, (such as a new spouse) not on a tax agent's lodgment list.

### Trust Distributions – Minutes

During the past year the courts have handed down several important decisions regarding the definition of trust income and the manner in which a beneficiary's entitlement to that income is determined. It is now considered crucial that the relevant trust deed is reviewed to determine what constitutes income of a particular trust.

Minutes recording the distribution of income to beneficiaries must be worded to accurately reflect the proportion of income (and possibly corpus) to which a beneficiary is entitled. To this end, where we do not already retain a copy of the deed pertaining to a particular client's trust, we will be requesting that the client obtain a copy for us from another source. Where the provisions of a deed are unclear or where we feel that it is appropriate for other reasons, we will request that clients seek legal advice as to the wording of minutes relating to distributions to ensure that breaches of the deeds do not occur and that distributions are in fact in accordance with the trustee's determination.

We acknowledge that this may result in additional costs for clients, but believe that in view of these court decisions it may be essential in some instances.

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