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Discretionary trusts: what the Federal Budget changes mean for you

By Perpetual Private Insights

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The 2026-27 Federal Budget has placed discretionary trusts under greater scrutiny, with proposed changes to how trust income is taxed. While these measures are not yet legislated, they are already prompting important questions for individuals, families and advisers.

We spoke with **Monica El Khoury, National Manager Trustee Services**, and **Paul Nesbitt, Associate Partner, Fordham Group (part of Perpetual Wealth)** to explain what is changing, what it means, and what to consider next.

It is important to remember that this material relates to proposals announced in the Australian Government Federal Budget 2026 that have not yet been legislated and our analysis contained here should be viewed in that context. We recommend that you do not take any specific action until the government provides greater detail in relevant draft legislation. Acting before legislation is finalised may result in unintended consequences.

Q: What are the key discretionary trust changes in the Federal Budget?

Paul:

The government has proposed introducing a minimum 30 percent tax rate on income distributed from discretionary trusts, expected to apply from 1 July 2028.
In practical terms, the proposal is intended to:

- reduce the effectiveness of income splitting
- align trust taxation more closely with company tax outcomes

This means trust distributions may no longer deliver the same tax advantages for lower-taxed beneficiaries.

It is important to emphasise that these measures are not yet law and may change before any final legislation is passed.

Q: How will discretionary trusts be taxed under the new rules?

Paul:

Under the proposed framework, tax would effectively be applied at the trust level, with the trustee responsible for paying tax at the minimum rate.

Beneficiaries would still be assessed on their share of income, but the interaction between trustee-paid tax and individual tax positions becomes more complex. For individuals, non-refundable tax credits may apply, while for corporate beneficiaries, this could introduce less favourable outcomes.

From an administrative perspective, this represents a shift in how trustees manage both cash flow and compliance.

Q: What does this mean for individual beneficiaries?

Monica:

For individuals, the key change is the introduction of a floor on the tax rate applied to distributed income.

Even where a beneficiary's personal tax rate is lower than 30%, the benefit of distributing income to them is reduced as the tax paid by the trustee is not refundable to them personally. This changes how families may think about allocating income across beneficiaries.

That said, it is important to remember that tax is only one factor in why a discretionary trust may have been established. Family circumstances, objectives and long-term planning considerations still play a central role.

Q: How are corporate beneficiaries affected?
Paul:

The treatment of corporate beneficiaries is one of the more significant shifts.

Under the proposal:

- companies would not receive credits for tax already paid at the trust level
- this may result in multiple layers of taxation on the same income
- the ability to use companies to defer or reduce tax is lessened

As a result, structures that rely on corporate beneficiaries may need to be revisited if these changes proceed.

Q: Are all trusts captured by these changes?
Monica:

No, the proposed measures are not intended to apply to all trust structures.

The minimum tax is not expected to apply to:

- complying superannuation funds
- fixed and widely held trusts
- special disability trusts
- charitable trusts
- deceased estates
- testamentary trusts established for genuine testamentary purposes (this exclusion is a recent change and is broader than the original exclusion announced on Budget night of which proposed only excluding some income derived from assets held by existing discretionary testamentary trusts on Budget night)

There are also proposed exclusions for certain types of income.

However, the detail is still evolving, and it will be important to assess the final legislation once released.

Q: Are any types of income excluded?

Paul:

Yes, certain income categories are expected to be excluded from the minimum tax.

These may include:

- primary production income
- selected income relating to vulnerable minors
- amounts already subject to non-resident withholding tax

The exact scope and mechanics of these exclusions will depend on the final legislation.

Q: What do these changes mean for testamentary trusts?

Monica:

The Government has recently recognised that Testamentary trusts are not created primarily for tax purposes, and it was not appropriate to apply the 30 percent minimum tax to these trusts.From our experience families will establish testamentary trusts for purposes including:

- asset protection
- managing complex family structures
- supporting vulnerable beneficiaries

The focus is beyond pure tax outcomes to broader estate planning objectives.

Q: Are discretionary trusts still relevant?

Paul:
Yes, discretionary trusts will continue to play an important role, but the reasons for using them may evolve.

While tax advantages may be reduced, they remain valuable for:

- asset protection, including protection from relationships or third-party risks
- managing family complexity, such as blended families
- supporting beneficiaries who may be vulnerable or inexperienced
- intergenerational wealth planning
- flexibility in distributing income and capital over time

The suitability of any structure depends on individual circumstances, objectives and long-term plans.

Q: Should you take action now?

Monica:
At this stage, caution is important.

The proposals are not yet legislated, and there is still uncertainty around how the rules will be finalised. Acting too early based on incomplete information can lead to unintended consequences.

This is a good opportunity to review your existing structures and ensure they still align with your long-term goals, rather than making reactive changes.

Q: What is the key takeaway?

Paul:
The tax landscape for discretionary trusts is changing, but there is still time to plan.

Key points to keep in mind:

- a 30 percent minimum tax is proposed from 1 July 2028
- income splitting benefits are likely to be reduced
- corporate beneficiary structures may become less effective
- the rules are not yet final (and changes to the original proposals are already occurring)

The most important step is to take a broad view of your situation.

Focus on your objectives, your family's needs and how your structures support those goals over time. Speaking with your adviser can help you determine what, if any, changes may be appropriate.

Final thoughts

The proposed changes to discretionary trusts represent a meaningful shift in how these structures may be taxed in the future. While the final detail is yet to be confirmed, they signal a move towards a more constrained tax environment.

If your investment strategy could be impacted, it may be worth discussing your options with a financial adviser before taking any action, particularly when considering transactions such as buying or selling property.

This may also be an appropriate moment to step back and revisit your existing structures, investments and long-term objectives. Ensuring they continue to align with your goals is important in a changing tax landscape. While immediate implications often draw focus, a financial adviser can help provide broader context and support more informed decision-making.

In this environment, clear goals and considered planning become increasingly important.

Read more about the key Federal Budget 2026–27 changes including proposed CGT and negative gearing changes here: https://www.perpetual.com.au/insights/federal-budget-2026/

If you would like to understand how these changes may affect your personal circumstances, speak with your adviser about the next steps.

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