

NEW ANNOUNCEMENT ON THE GOVERNMENT'S TRUST TAXATION REVIEW

In a welcome move, the Assistant Treasurer, Bill Shorten, announced on 4 March 2011, that the government would make changes to the Income Tax Assessment Act 1936 in the 2010/2011 financial year to adopt a new definition of "income of a trust estate" and to confirm the ability of trusts to stream franking credits and capital gains.

These measures are intended to provide certainty for trust distributions in the current year and will form part of the (previously announced) wide-ranging review of trust taxation. Further changes are expected for future financial years as part of the review, but at this stage those changes are not yet known.

We believe it is still prudent for trustees of discretionary trusts to review existing trust deeds to determine if:

- the trust deed contains an adequate definition of income and if the trustee can determine at any time what definition the trustee will apply;
- the trust deed contains a discretion for the trustee to determine the nature of receipts and expenses and whether they are applied to the income account or to capital account; and
- the trust deed contains a power for the trustee to distribute specific categories of income to particular beneficiaries.

If you have any queries or require trust deed amendments, please call toll-free on 1800-773-477.