



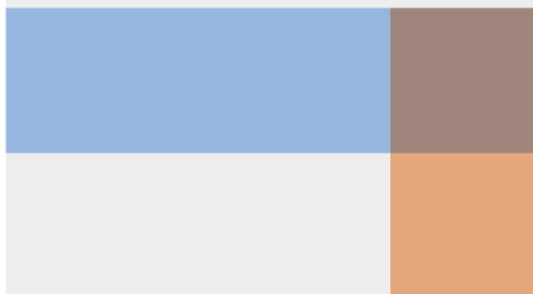
Australian Government  
The Treasury



# Impact analysis

## Minimum tax on discretionary trusts

October 2026



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# Dashboard impact analysis

## The proposed policy approach and policy problem

### Proposed approach

To introduce a 30 per cent minimum tax on the taxable income of discretionary trusts from 1 July 2028. The trustee would pay the tax and non-corporate beneficiaries would receive non-refundable tax offsets. Targeted exclusions, 3 years of expanded roll-over relief from 1 July 2027, and an electable regime for the 2028–29 income year would support arrangements and facilitate transitions.

This proposed approach improves the fairness and sustainability of the tax system by reducing differences in tax outcomes for users of discretionary trusts that are not available to taxpayers in otherwise similar circumstances, including wage earners, while limiting restructuring costs.

### Policy problem

The use of discretionary trusts in Australia has grown substantially over time and the benefits are concentrated among households with higher incomes and wealth. The current taxation of discretionary trusts allows flexible allocation of trust income among beneficiaries, resulting in some taxpayers facing lower tax rates, deferring tax or obtaining other tax advantages in ways that are generally unavailable to other taxpayers, such as salary and wage earners. Reform will improve the fairness and sustainability of the tax system.

## Summary of impacts and methodology

| Option                                                                                                                                                                                                      | Benefits                                                                                                                                                                               | Other costs                                                                                                                                                                                                                                                                                                           | Net impact                                                                                                                                                                                                 | Regulatory burden                                                                                                                                                                                         |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Proposed:</b><br>Introduce a 30 per cent minimum tax on the taxable income of discretionary trusts with offsets for non-corporate beneficiaries and support for restructuring via rollover and election. | Significant improvement in fairness and sustainability of the tax system.<br>Less complex tax affairs for some trust users.<br>Some businesses operate in more appropriate structures. | Costs to understand the new tax laws and restructure if preferred, as set out in the regulatory burden.<br>Higher taxes payable by some taxpayers, noting restructuring may limit the impact of this on business.                                                                                                     | Largest revenue sustainability benefits and strongest fairness outcome.                                                                                                                                    | Indicative annual regulatory cost of \$141 million on average over 10 years. This is comprised of \$939 million in one-off implementation costs over 10 years and \$48 million per year in ongoing costs. |
| <b>Alternative:</b><br>Introduce a 30 per cent minimum tax on the taxable income of discretionary trusts with offsets for all beneficiaries.                                                                | Some improvement in fairness and sustainability of the tax system.<br>Continued use of existing structures.                                                                            | More complex tax affairs for some trust users, due to the need to establish a new 'tracking' approach with associated integrity rules.<br>There will be some small businesses who will no longer benefit from a shift to an alternative structure accessing roll-over relief or use of the electable taxation regime. | Smaller improvements to the fairness and sustainability of the tax system than the proposed option.<br>Trusts with over \$1 million in income are expected to pay less tax than under the proposed option. | Indicative annual regulatory cost of \$157 million on average over 10 years. This is comprised of \$602 million in one-off implementation costs over 10 years and \$97 million per year in ongoing costs. |

## Economic and social impacts

| Category                 | Status quo                                                                                                                                                                                                                                                                                                                                  | Proposed option                                                                                                                                                                                                                                                                                                                                                                                |
|--------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>People</b>            | Taxpayers with similar incomes can face materially different tax outcomes depending on access to a discretionary trust. Higher-income families can allocate income to lower-taxed beneficiaries; over 95 per cent of Australians do not receive discretionary trust income.                                                                 | A minimum 30 per cent tax would reduce the differences in tax outcomes for users of discretionary trusts and more closely align outcomes with taxpayers in comparable circumstances. Impacts are expected to be concentrated among family groups whose distribution arrangements result in an overall lower tax rate than taxpayers in otherwise similar circumstances.                        |
| <b>Businesses</b>        | Trust structures can support succession plans and protect assets, but the taxation of discretionary trusts may also influence what is considered the most appropriate entity choice for the business, distribution decisions and the use of multiple entities. Around 350,000 active small businesses operate through discretionary trusts. | 85 per cent of active small businesses do not operate through a discretionary trust structure and will not be affected. Of the businesses affected, some may pay more tax, change distributions, utilise the electable regime, or restructure into companies or fixed trusts. Tax agents are also expected to face transitional and compliance costs to prepare for and implement the measure. |
| <b>Others</b>            | Ongoing impacts on tax system integrity and sustainability would increase tax burden on income earned from work. Community confidence in tax-system fairness and sustainability may also decline. Trust wealth and income are concentrated among higher-income and wealthier households.                                                    | Benefits accrue broadly through improved fairness, integrity and more sustainable revenue. Exemptions for certain trusts and income will avoid or limit impacts to charities, farmers, vulnerable minors, superannuation funds, and testamentary trusts.                                                                                                                                       |
| <b>Stakeholder views</b> | n/a                                                                                                                                                                                                                                                                                                                                         | Stakeholders generally acknowledged the reform objective, but many raised concerns about increased tax, complexity and restructuring costs.                                                                                                                                                                                                                                                    |

## Regulatory burden

| Category                 | Status quo                                                                                                                                                                                                                 | Proposed option                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|--------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>People</b>            | No new regulatory obligations, but beneficiaries and trustees continue to incur costs associated with existing trust reporting and consideration of taxation arrangements.                                                 | Individual beneficiaries would continue declaring trust income and would be able to claim non-refundable offsets. Individual beneficiaries will face implementation costs as they learn about the changes and verify their minimum tax offset in the first year.                                                                                                                                                                                                                              |
| <b>Businesses</b>        | Trustees and advisers continue spending time and professional effort establishing and maintaining discretionary trust structures, including considering the tax consequences of different distribution and entity choices. | Trustees and tax agents would incur one-off learning and systems costs and ongoing costs to calculate the minimum tax, and notify beneficiaries for those not already doing so. Businesses which restructure or elect will face additional implementation costs. While restructured businesses may face new compliance costs associated with using different entity types, they may also move to simpler structures and ones that better support their commercial and operational objectives. |
| <b>Others</b>            | The ATO continues to rely on existing integrity rules and compliance activity to address arrangements that present integrity risks.                                                                                        | Digital service providers and the ATO would need systems and process changes. Expanded roll-over relief will defer the immediate income tax cost of restructuring, and the electable regime is expected to avoid formal restructuring and associated costs, though some upfront costs would remain for both.                                                                                                                                                                                  |
| <b>Stakeholder views</b> | Current settings are seen by many affected taxpayers as familiar and flexible; consultation evidence reflects current complexity in trust taxation and planning.                                                           | Stakeholders reported potentially substantial legal, accounting and state duty costs for restructuring, with some estimates up to \$50,000 per restructure. The electable regime responds directly to these concerns and will have significantly lower upfront costs.                                                                                                                                                                                                                         |

## Other considerations and implementation

This impact analysis considered an alternative option where the 30 per cent minimum tax would apply to the taxable income of discretionary trusts and non-refundable minimum tax offsets would be available to all beneficiaries, including corporate beneficiaries. However, the corporate beneficiary would be required to separately track the discretionary trust distributions it receives and associated non-refundable minimum tax offsets for subsequent distributions to shareholders, including corporate shareholders. This option would not include expanded roll-over relief or an electable regime.

While this option would partially achieve the policy objective of improving the fairness of the tax system, it would retain some of the tax arrangements available to discretionary trust users such as using corporate beneficiaries to defer income and retaining flexibility to stream different types of income to beneficiaries where that income receives the most favourable tax treatment. While this means some trusts would pay less tax under this proposal, a subset of other trusts that largely do not have corporate beneficiaries would be expected to pay more tax as they have fewer avenues to restructure. Overall, this proposal would not improve tax system fairness and sustainability to the same extent, with implications for system complexity, integrity and revenue.

### What success looks like

Success would include closer alignment of tax outcomes for discretionary trust users and comparable taxpayers; reduced tax-planning activity; more sustainable trust-related revenue; and administratively workable collection.

### Implementation approach

Implementation through amendments to Commonwealth taxation laws commencing 1 July 2028, supported by ATO systems, reporting, assessment and payment changes. Expanded roll-over relief would apply for 3 years from 1 July 2027, and affected existing trusts will also have an option in the 2028–29 income year to nominate beneficiaries and set proportions and be exempt from the minimum tax.

Risks relating to restructuring, alternative planning, trustee collection and readiness would be managed including through appropriate scope, clear legislation and guidance, lead time, support through transitional arrangements, and monitoring of emerging arrangements.

### Planned evaluation

Treasury and the ATO will undertake ongoing monitoring using tax return and administrative data. Monitoring will cover trustee compliance, use of roll-over relief and the electable regime, restructuring, distribution patterns, revenue outcomes and changes in entity use. The Government will consider the timing of any formal evaluation after sufficient post-commencement and post-transition data are available.



## Background

A trust is a legal arrangement where a person (a trustee) holds and manages assets for the benefit of others (the beneficiaries), who may be individuals or other entities such as companies or other trusts.

There are different types of trusts, including discretionary, fixed, unit, and widely held trusts such as managed investment trusts. Other types include testamentary trusts, charitable trusts, special disability trusts, deceased estates and superannuation funds. Discretionary trusts are the most common type of trust used in Australia and comprise around 80 per cent of all trusts.<sup>1</sup> Discretionary trusts are the subject of this policy.

Under current arrangements, trusts are not usually taxed on the income they receive. Instead, beneficiaries are made entitled to the income of the trust and based on this, pay tax on their share of the trust's taxable (net) income at their marginal tax rate. Where no beneficiary is entitled to the trust income, the trustee is assessed at the top marginal tax rate plus the Medicare Levy. In some cases, trustees are assessed on behalf of beneficiaries, such as minors and non-residents.

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<sup>1</sup> ATO Taxation Statistics 2022–23.

# 1. Policy problem

The taxation of trusts has been the subject of several reviews. Past reviews of the tax system that have highlighted concerns with the tax issues posed by discretionary trusts include the *Asprey Report* (1975), *A New Tax System* (1998), *Review of Business Taxation* (1999), *Australia's Future Tax System* (2009) and *Re:think* (2015).

This is a longstanding issue for the Australian tax system, affecting the sustainability, equity and complexity of the system.

## The use of discretionary trusts is growing impacting the sustainability of the tax base

The number of discretionary trust structures has more than doubled over the past 20 years, and Australia now has over 1 million trusts, most of which are discretionary trusts (840,000 in 2022–2023) (Chart 1). The growth in discretionary trust structures exceeds the growth in the number of companies, which has only increased by 70 per cent in the same period.

Australia's extensive use of discretionary trusts for business activity is unusual compared with comparable jurisdictions. In 2022–23, there were more than one million trusts in Australia, or around 40 trusts per 1,000 people. By comparison, the UK is estimated to have around 2 trusts per 1,000 people, and the US around 9 trusts per 1,000 people. New Zealand has higher use of trusts, estimated at around 44 trusts per 1,000 people.<sup>2</sup>

Jurisdictions such as the United Kingdom, New Zealand and Ireland commonly impose trustee-level tax on trust income, and in some cases impose high rates or additional charges that discourage discretionary trust use.

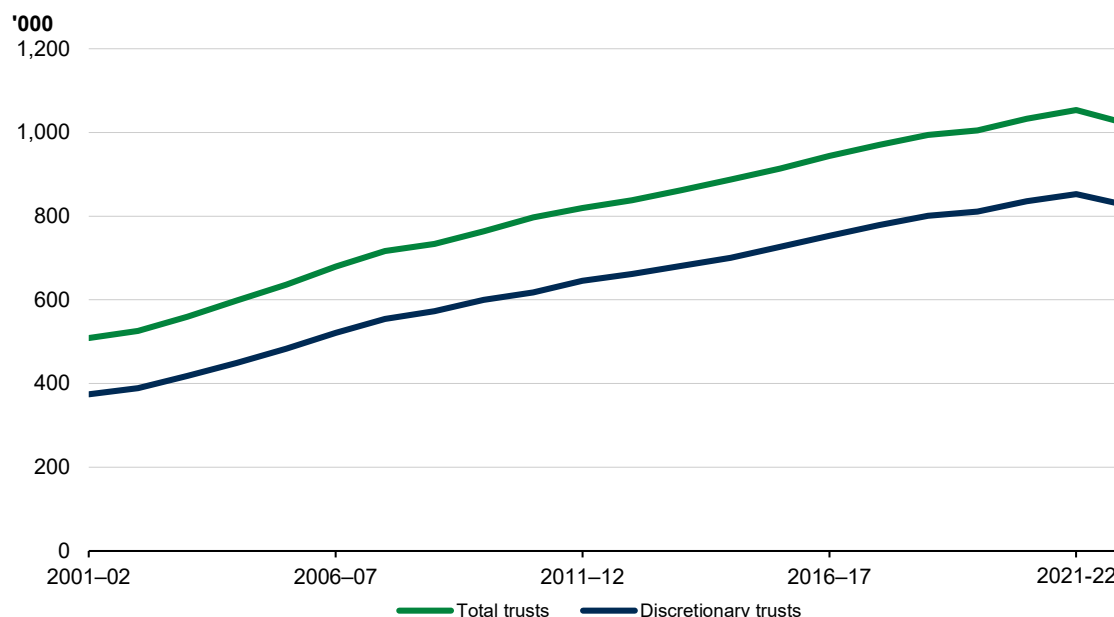
A range of factors may have contributed to discretionary trust growth in Australia, including their flexibility and their tax treatment. In 2022–23, discretionary trusts held around \$1.1 trillion in assets and distributed \$142.4 billion in income to other entities.<sup>3</sup> Given the tax planning opportunities available with a discretionary trust, as described below, the growth in the use of discretionary trusts presents a risk to the sustainability of tax revenues.

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<sup>2</sup> The Treasury, 2026–27 Budget Tax Explainer, Minimum tax on discretionary trusts, 2026.

<sup>3</sup> ATO Taxation Statistics 2022–23.

Chart 1: Count of trusts in Australia



Note: Counts for 2022-23 income year may be revised upwards reflecting late lodgements.

Source: ATO Taxation Statistics 2022-23 and Treasury.

## Discretionary trusts create tax advantages for some but not others

Discretionary trusts are used for many of the same reasons as other types of trusts. Trusts may be used to support family and commercial arrangements, including as a collective investment vehicle, for asset protection and for succession planning.

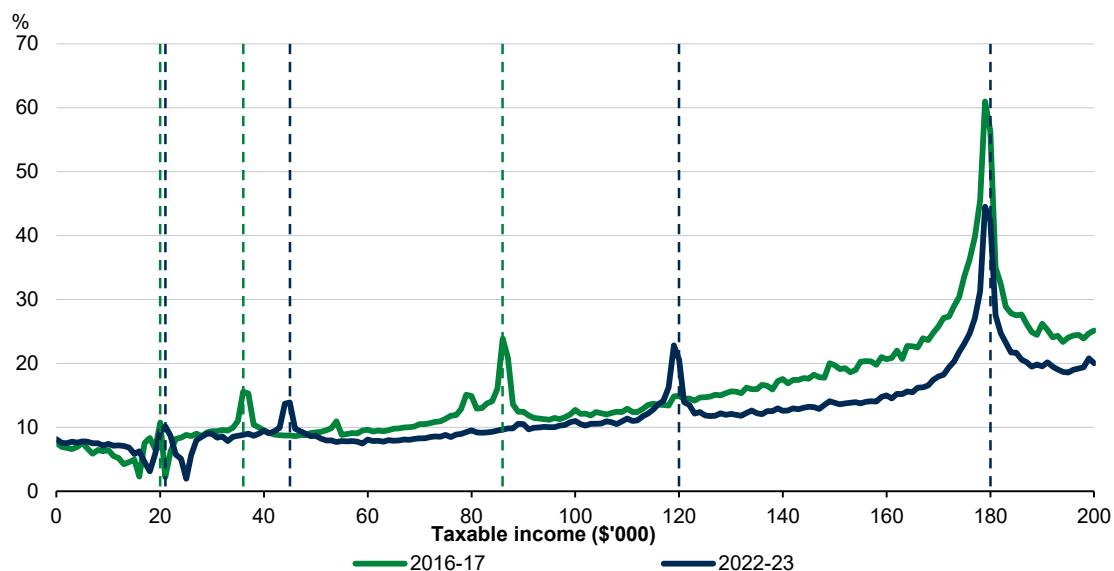
However, discretionary trusts are also used in ways that can reduce the tax rate on income earned from assets. Despite existing integrity provisions, interactions between the taxation of trusts, individuals and companies can allow income to be taxed at different rates or at different times:

- Trustees of discretionary trusts can allocate all or part of their income to beneficiaries who have a lower marginal tax rate, known as 'income splitting'.
- Trustees can also 'stream' income of different character, such as franked distributions and capital gains, to different beneficiaries where that income receives the most favourable tax treatment.
- Trustees can also use distributions to make payments on behalf of beneficiaries, allowing income to be distributed to a lower-taxed beneficiary while funding family expenses.
- Making corporate beneficiaries entitled to trust income provides access to corporate tax settings and a mechanism to defer tax for underlying shareholders, who are often also trust beneficiaries.
- Beneficiaries may also be made entitled to trust income to reduce the overall tax paid but not actually receive the income as the income is retained in the trust for the benefit of the trustee or primary earner.

- Trusts can be used to hold separate projects or assets to isolate liabilities and quarantine project risk within a group. The discretion to allocate income enables a group to distribute income to where it can be most effective at offsetting losses while also preserving the capacity to stream particular types of income to tax-advantaged individual beneficiaries. This contrasts with corporate groups where the utilisation of losses and tax attributes is subject to more prescriptive rules, including restrictions on streaming franking credits to shareholders.

The flexibility of trust structures (including the types of beneficiaries) makes these arrangements possible. Collectively, these features can result in a lower tax liability, the deferral of tax, or other tax advantages compared with income earned by taxpayers in otherwise similar circumstances. This can weaken the progressivity and sustainability of the tax system. The distribution of trust beneficiary income shows concentrations around relevant tax thresholds, consistent with tax considerations influencing distribution decisions (Chart 2). The role of tax in incentivising particular distribution patterns can also be seen in sharp increases in entitlements to trust income for minors once they reach adulthood and are no longer subject to penalty rates.

**Chart 2: Share of tax filers with income from discretionary trusts**



Note: Share of tax filers in each \$1,000 income band.

Source: ATO and Treasury analysis.

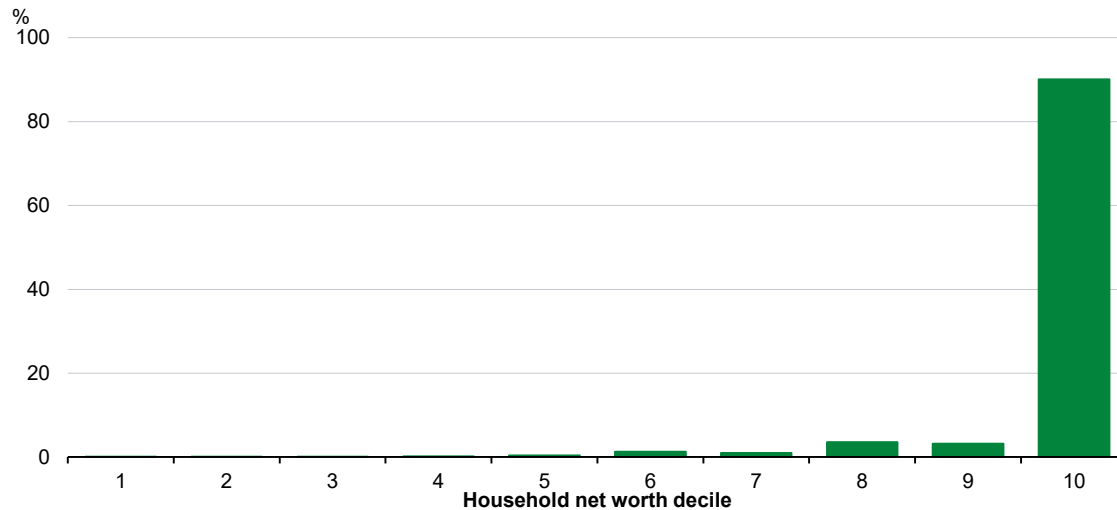
Other types of trusts, such as fixed trusts, do not have the same flexibility and tax advantages as discretionary trusts.

On average, families with discretionary trusts face a tax rate around 4 percentage points lower than families with similar incomes that did not use a trust in 2022–23, reflecting the taxation arrangements described earlier.

The potential tax effects of discretionary trusts may be more material for households with higher levels of investment and/or business income. These households may also have greater access to professional tax advice. As a result, differences in after-tax income may accumulate over time and contribute to differences in opportunities to build and transfer wealth within families, contributing to intergenerational differences in wealth and tax outcomes.

The benefits of trust structures are concentrated among higher-income individuals and wealthier households. Over 95 per cent of individual tax filers do not receive income from a discretionary trust. In addition, the wealthiest 10 per cent of Australian households hold over 90 per cent of the total private trust wealth (Chart 3), indicating a strong link between trust usage, high incomes and accumulated wealth.

Chart 3: Distribution of total private trust wealth (2019–20)



Source: ABS Survey of Income and Housing and Treasury.

## Tax-driven use of discretionary trusts increases complexity

Stakeholder consultation indicates that in some cases businesses operating through trusts choose to operate through multiple trusts and/or companies, reflecting commercial and legal considerations as well as tax outcomes.<sup>4</sup>

A discretionary trust established with a corporate beneficiary is, in some cases, actively promoted by tax advisers to businesses for tax and other reasons including asset protection, estate planning, availability of finance, and privacy.<sup>5</sup>

These structures are a relatively small share of overall business structures. In 2022–23, around 350,000 active small businesses (less than 15 per cent of all active small businesses) operated through a discretionary trust structure. Further, only around 80,000 companies (around 6 per cent of all companies) reported receiving discretionary trust distributions. Of the companies receiving discretionary trust distributions, 83 per cent showed no evidence of usual business activity, indicating that they may operate, in part, for tax purposes.

4 ACI, Anthony Wardley, CTA submissions to Treasury consultation paper – *Minimum tax on discretionary trusts*, July 2026.

5 Dr Sonali Walpola and Dr Helen Ping, ACOSS, Dale Boccabella, ACI submissions to Treasury consultation paper – *Minimum tax on discretionary trusts*, July 2026. The Board of Taxation, Post Implementation Review of Division 7A of Part III of the *Income Tax Assessment Act 1936*, Chapter 2, 2014. The Board of Taxation, *Taxation of Discretionary Trusts*, 2002. Productivity Commission, *Business Set-up, Transfer and Closure*, 2015, p.83–95.



The use of trusts comes with costs, including set-up costs and costs that arise because business owners may not fully understand the implications of their structure for the full range of business circumstances, including legal complexity and limitations on raising capital. For example, in 2015 the Productivity Commission noted that:

*'The Commission has heard that the use of trusts is often not well understood by business owners adopting them. The Commission was also told that in many cases, they are an unnecessary level of additional complexity foisted on business owners by professional advisors locking owners into an ongoing need for more complex and expensive professional services.'*<sup>6</sup>

In some cases, tax considerations may encourage businesses to operate through discretionary trusts even where another structure would better support commercial objectives. Compared with companies, trusts can be more complex to administer, less conducive to raising capital and facilitating ownership changes, and less suited to supporting business growth and expansion over time.

## Existing integrity measures cannot address widespread tax planning

A range of legislative and administrative measures currently address specific integrity risks associated with trusts, including rules relating to personal services income, reimbursement arrangements, franking credits and loans to private companies, as well as the general anti-avoidance rules. However, these measures primarily operate at the beneficiary level, are difficult to enforce at scale and do not effectively address the trustee-level incentive to flexibly allocate income in ways that reduce tax.<sup>7</sup>

As a result, existing measures have limited ability to address the underlying incentives created by differences between the taxation of trusts, individuals and companies which can allow income to be taxed at different rates or at different times.

Without intervention, the use of discretionary trusts and the differences in tax outcomes is expected to continue, compounding inequity among taxpayers and putting increasing pressure on the sustainability of the tax system.

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6 Productivity Commission, *Business Set-up, Transfer and Closure*, 2015, p.92–93.

7 Dr Sonali Walpola and Dr Helen Ping, ACOSS, Dale Boccabella, submissions to Treasury consultation paper – *Minimum tax on discretionary trusts*, July 2026.



## 2. Objectives

The Economic Reform Roundtable (August 2025) and the *Intergenerational Report* (September 2026) emphasised the need for tax reform to improve intergenerational equity, support productivity and simplify the tax system.

The proposal seeks to support a fairer and more sustainable tax system by:

- Improving equity between income earned through discretionary trusts and income earned through wages or direct business activities by reducing the extent to which tax advantages can be obtained through these structures.
- Improving the sustainability of the tax system by reducing revenue lost from tax arrangements involving discretionary trusts.
- Promoting efficient use of resources by reducing incentives to spend time and resources on complex trust arrangements for tax purposes.

The use of discretionary trusts is driven in part by tax settings that can only be changed by government. These incentives will remain without reform. Government intervention is feasible and effective, as trust taxation is governed by Commonwealth legislation and administered by the ATO.

Success will depend on the measure being administratively workable and supported by clear legislative design. Indicators that could be used to measure success include:

- Improved alignment in tax outcomes between users of discretionary trusts and other taxpayers, such as wage earners, in otherwise similar circumstances.
- A shift away from discretionary trust structures where they are used primarily for tax reasons towards structures selected based on a business's commercial and operational needs.
- More sustainable revenue.
- A reduction in ATO compliance activity involving complex trust structures.

### 3. Policy options

This impact analysis identifies policy options that aim to improve the fairness and sustainability of the tax system by reducing the differences in tax outcomes arising from the use of discretionary trusts. These options differ in the extent to which they achieve the policy objective and the trade-offs they involve.

Noting that there have been various attempts over time to reform the taxation of trusts, the options represent a subset of a wide range of options considered. For example, in the early 2000s a government proposal to tax trusts like companies was withdrawn due to technical problems and so is not considered any further here. The options have also been informed by submissions from stakeholders.

A non-regulatory option is not viable as the tax system is not voluntary.

#### Option 1 – Status quo

Under Option 1, no changes would be made to the taxation of discretionary trusts. Trust income would continue to be taxed primarily at the beneficiary level, with trustees taxed only in limited circumstances. Existing integrity rules would remain in place, and current incentives and distribution practices involving discretionary trusts would continue.

#### Option 2 – Introduce a 30 per cent minimum tax on the taxable income of discretionary trusts with offsets for non-corporate beneficiaries and support for restructuring via roll-over and election

Option 2 would introduce a 30 per cent minimum tax on the taxable income of discretionary trusts from 1 July 2028. The tax would be payable by the trustee as it is the trustee that controls distributions. Beneficiaries will still need to declare the income in their tax returns, but beneficiaries, other than corporate beneficiaries, will be able to claim non-refundable minimum tax offsets for the tax payable by the trustee, which can be used to offset their current year income tax liabilities.

The minimum tax will not apply to primary production income, certain income relating to vulnerable minors and amounts to which non-resident withholding tax applies and income from assets of genuine testamentary trusts. It will also not apply to distributions to registered charities and deductible gift recipients, or to self-assessed income tax-exempt entities up to a capped amount. Other types of trusts, such as fixed trusts, widely held trusts, complying superannuation funds, special disability trusts, deceased estates, and charitable trusts will also be excluded from the minimum tax.

Corporate beneficiaries would not be able to claim the non-refundable minimum tax offset and ordinary company tax would continue to apply to trust distributions received. Company tax paid would continue to generate ordinary franking credits under the existing imputation system.

Expanded roll-over relief will be available for 3 years from 1 July 2027 to assist small businesses and other taxpayers that wish to restructure out of discretionary trusts into other arrangements, such as companies and fixed trusts. This will provide relief from income tax consequences, including capital gains tax, for those who choose to restructure. Removing income tax as a barrier to restructuring provides businesses with greater flexibility to consider their appropriate legal structure.



This option would also introduce an electable regime under which a trustee of a discretionary trust existing on 1 July 2028 can choose to nominate beneficiaries and set proportions for income tax purposes. The trust would be exempted from the minimum tax, where they exercise their discretion for a tax year consistent with a nomination. This election could be made in the 2028–29 income year and is expected to avoid the need for many discretionary trusts to formally restructure to other entities.

## Option 3 – Introduce a 30 per cent minimum tax on the taxable income of discretionary trusts with offsets for all beneficiaries

This option was developed drawing on stakeholder feedback and suggestions through consultations in July and September 2026.

Option 3 would impose a minimum tax of 30 per cent on the taxable income of discretionary trusts, payable by the trustee. All beneficiaries, corporate and non-corporate, would receive non-refundable minimum tax offsets for the tax payable by the trustee.

Under this option, the corporate beneficiary could claim a non-refundable minimum tax offset against its tax liability. There would be a need to prevent corporate beneficiaries from converting these non-refundable minimum tax offsets into refundable franking credits. Therefore, corporate beneficiaries would be required to separately track discretionary trust distributions received and associated non-refundable minimum tax offsets. When the corporate beneficiary subsequently pays dividends to its shareholders these dividends must first draw on the discretionary trust distributions received and associated non-refundable minimum tax offsets. These minimum tax offsets would remain non-refundable in the hands of shareholders, including corporate shareholders. Once these minimum tax offsets are exhausted, only then can refundable franking credits from the ordinary franking account be attached to subsequent ordinary dividends.

The model would also require a substantial supporting legislative framework. Rules would be required to quarantine trust income from company losses, so current and carried forward losses could not reduce the amount subject to minimum tax. Rules would also be required to address interactions between the new non-refundable offsets and existing refundable franking credits.

The same exclusions of types of trusts, income and distributions that apply in Option 2 would apply in Option 3. However, there would be no expanded roll-over relief or electable regime.<sup>8</sup>

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<sup>8</sup> For example, see Pitcher Partners Advisors Proprietary Limited submission to Exposure draft consultation – *Minimum tax on discretionary trusts*, September 2026.

## 4. Net benefits

### Methodology

The net benefit assessment draws on both quantitative and qualitative analysis. Quantitative inputs include indicative revenue estimates, distributional analysis of trust beneficiaries and illustrative examples of tax outcomes under alternative policy settings. Not all administrative, behavioural and compliance impacts can be quantified or quantified with sufficient precision. In some cases, ranges are used due to uncertainty. Qualitative analysis considers integrity effects, behavioural responses, implementation feasibility, compliance costs and impacts on small business and the broader economy. Accordingly, the assessment places significant weight on qualitative factors and the extent to which each option is likely to achieve the policy objective.

The main groups affected are discretionary trust beneficiaries, small and medium businesses operating through discretionary trust structures, tax practitioners and the ATO. As the wealthiest 10 per cent of Australian households hold over 90 per cent of the total private trust wealth (Section 1), impacts are expected to be concentrated among higher-wealth households and business groups that currently benefit most from operating through trusts. There were around 840,000 discretionary trusts including 11,000 testamentary trusts in use in 2022–23.<sup>9</sup> However, not all of the existing discretionary trusts would be in scope of the options given the exemption for testamentary trusts and updated definition of fixed trust (which may now capture a subset of discretionary trusts that meet the new definition).

### Option 1 – Status quo

The status quo is the baseline option with no net benefit or cost. It would maintain existing arrangements for taxpayers. This would avoid any new implementation and ongoing compliance obligations as existing law and administrative settings would remain unchanged. The status quo would also avoid the need for ATO system changes and collection arrangements.

The status quo would not achieve the policy objective, as it would not improve the fairness and sustainability of the tax system. It would preserve opportunities for tax planning that disproportionately reduce tax for higher-income taxpayers and wealthier households and not address the risks to revenue of the growth of the use of discretionary trusts.

Discretionary trusts users and new businesses that set up through trust structures are expected to continue to spend time and effort, and incur advice costs, in establishing and maintaining complex discretionary trust structures. Where driven by tax reasons, these resources could otherwise be directed towards business investment and other economic activities.

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9 ATO Taxation Statistics 2022–23.

## Option 2 – Introduce a 30 per cent minimum tax on the taxable income of discretionary trusts with offsets for non-corporate beneficiaries and support for restructuring via roll-over and election

### Benefits

Option 2 is expected to generate significant improvements to the fairness and sustainability of the tax system.

This option would change the taxation of discretionary trusts to reduce the incentive to use these structures for tax reasons. Imposing a 30 per cent floor on the tax payable by discretionary trusts directly limits the ability to use these structures to achieve lower tax rates. By denying non-refundable minimum tax offsets to corporate beneficiaries, corporate beneficiaries will not be able to be used to defer tax for underlying shareholders. This directly addresses the policy problem by reducing the differences in tax outcomes between users of discretionary trusts and taxpayers in otherwise similar circumstances, including wage earners.

This option would improve the sustainability of the tax system. The increasing use of discretionary trusts means an increasing loss of revenue from tax planning. This option is estimated to increase tax receipts by \$4.3 billion over the forward estimates period. It would also reduce reliance on existing integrity rules, which are difficult to enforce at scale and do not address broader tax planning incentives.

This option is expected to reduce some (unquantified) ongoing compliance costs for taxpayers by reducing the use of complex trust and distribution arrangements. This includes the potential for ongoing savings from less complex tax affairs for trusts that restructure. This needs to be offset against new compliance costs some of these restructured entities may face, such as paying Australian Securities and Investments Commission (ASIC) registration fees to set up a new company. New businesses being established will also have an incentive to choose structures based on commercial and operational objectives, rather than for tax reasons, and which may be better suited to financing and growth objectives.

### Costs

Option 2 would increase tax liabilities and impose compliance costs for some taxpayers.

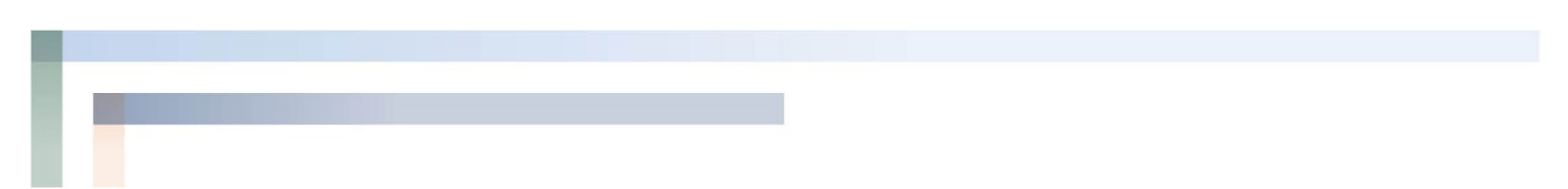
All users of discretionary trusts will face the broader cost of managing the implications of the minimum tax to some extent. Some businesses using trusts may pay more tax, others may change distributions, or restructure into companies or fixed trusts. Some submissions have suggested these disruptions will reduce cash flow available for business investment, constraining hiring and weakening incentives to expand and reinvest in businesses.<sup>10</sup> They may also make business affairs simpler and better understood by the business, supporting clearer decision making on the fundamentals of the business.

The implications may be more substantial for some sectors than others.<sup>11</sup> For example, the Property Council of Australia has indicated that the proposed minimum tax is expected to affect the timing,

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10 ACCI submission to Treasury consultation paper – *Minimum tax on discretionary trusts*, July 2026.

11 Master Builders Australia submission to Exposure draft consultation – *Minimum tax on discretionary trusts*, September 2026.



viability and delivery of some residential and commercial property development projects.<sup>12</sup> However, the impacts are expected to be reduced by the roll-over relief and the electable regime, which will give existing trusts options to manage the implications of the minimum tax (these are discussed in further detail below).

Environmental impacts have not been identified. Competition impacts are likely to be limited and indirect to the extent that business structure impacts some businesses' competitiveness.

This option will lead to one-off implementation costs as well as ongoing costs due to increased compliance (see Appendix A for details). Compliance costs are expected to be relatively targeted – over 95 per cent of individual tax filers did not receive income from a discretionary trust and around 94 per cent of companies did not receive a distribution from a discretionary trust in 2022–23.

The one-off implementation costs are estimated to be between \$780 million to \$1.1 billion, with a mid-point estimate of \$939 million. These costs consider the various options available to users of discretionary trusts, including:

- The cost for business and non-business trusts to receive advice and continue their use of discretionary trusts arrangements.
- The cost for business and non-business trusts to receive advice and opt into the electable regime to be exempted from the minimum tax where they choose to adhere to a pre-nominated pattern of distribution.
- The cost for business and non-business trusts to receive advice and restructure into another entity type, including the cost of new entity and governance documents, asset transfers and registrations, updating commercial arrangements and other contracts, and using the available roll-over relief.
- The cost for tax agents to understand the new rules, assess implications and update trust reporting and notification processes.
- The cost to beneficiaries to learn about the changes and verify their minimum tax offset in the first year.

Some trustees are expected to restructure discretionary trusts into alternative arrangements in response to the minimum tax. Expanded roll-over relief for 3 years from 1 July 2027 is expected to reduce the cost of restructuring by providing relief from income tax consequences, including capital gains tax.

Other trustees will opt into the electable regime for affected discretionary trusts existing on 1 July 2028 to choose to nominate beneficiaries and set proportions for income tax purposes and, where they choose to exercise discretions consistent with the nomination, be exempted from the minimum tax. The election will also enable trusts within a group to continue utilising existing losses to some extent held elsewhere in the group by nominating a trust with carried forward losses as a beneficiary and allocating income to that trust in accordance with the election without being subject to the minimum tax.

Stakeholders noted during consultation that restructuring businesses can involve a variety of costs, as indicated above, and that these costs can be substantial, depending on business size, assets owned and structure. The cost for a particular trustee will depend on a range of factors that are difficult to know for each trust – as explained further in Appendix A – and may explain the range of estimates that stakeholders have provided. For example, CPA Australia estimated the cost per restructure could be

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12 The Property Council of Australia submission to Exposure draft consultation – *Minimum tax on discretionary trusts*, September 2026.

between \$9,536 to \$23,436, and Council of Small Business Organisations Australia (COSBOA) noted that costs typically range between \$15,000 to \$50,000.<sup>13</sup>

Many stakeholders also noted that the cost of state and territory duties can further raise the cost of restructuring, particularly for trusts with land and property assets that are considered dutiable transactions in most states. For example, the Australian Chamber of Commerce and Industry (ACCI) estimated that a \$1 million transfer could attract duty ranging from \$36,590 to \$55,000 depending on the state or territory.<sup>14</sup> Direct tax consequences, including state and territory duties, are not considered regulatory costs in the Regulatory Burden Measurement framework, and businesses that may incur stamp duty in the event of a restructure will be able to use the electable regime, which is not expected to trigger stamp duty.

The average cost of restructuring is estimated to be around \$11,000 for businesses and around \$2,000 for non-businesses and are treated as part of the overall regulatory burden costs (see Appendix A for details). These average costs reflect the ranges estimated by stakeholders, such as CPA Australia and reflect that average costs consider a range of restructure scenarios, from relatively straightforward to more complex advice and restructures.

While it is not possible to accurately predict how many trusts will restructure, the introduction of an electable regime is expected to remove the need for many discretionary trusts to formally restructure to other arrangements. Several stakeholders, including Chartered Accountants Australia and New Zealand (CA ANZ), CPA Australia, EY Australia, the Law Council of Australia, the Tax Institute, BDO, recognised the electable regime as an alternative to restructuring for some trusts.<sup>15</sup> The regime will be available to affected discretionary trusts existing at 1 July 2028, resulting in exemption from the minimum tax if they choose to exercise discretion consistent with nominated beneficiaries and set proportions.

The ongoing compliance costs under Option 2 are estimated to be \$48 million per year. This includes annual costs for business and non-business trusts to comply with the new arrangements, including calculating the minimum tax (see Appendix A for details).

This costing does not account for the reduced tax compliance cost that would be expected to occur over time as new businesses are created and, where relevant, established in simpler and more appropriate structures including simple company structures rather than more complex arrangements involving discretionary trusts. While unquantified, this is an important additional compliance cost impact of the policy.

Option 2 will also require funding for the ATO to implement the minimum tax, including through systems changes and collection mechanisms. The 2026–27 Budget provided that the ATO will receive \$66 million over the 5 years from 2025–26 to support implementation of the measure, with \$1.3 million allocated to the ATO in 2026–27 and the remaining funding from 2027–28 held in the Contingency Reserve.

There are also collection and administrability risks. The minimum tax would shift a significant portion of discretionary trust income tax liabilities from beneficiaries to trustees, which represents a significant shift in the collection system. Imposing this tax at the trustee level could improve visibility. But there are also known recovery challenges associated with trustees, especially corporate trustees, and there are potential risks relating to delayed payment, non-payment and illegal phoenix behaviour

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13 CPA Australia and COSBOA submissions to Treasury consultation paper – *Minimum tax on discretionary trusts*, July 2026.

14 ACCI submission to Treasury consultation paper – *Minimum tax on discretionary trusts*, July 2026.

15 CA ANZ, CPA Australia, EY Australia, the Law Council of Australia, the Tax Institute, BDO submissions to Exposure draft consultation – *Minimum tax on discretionary trusts*, September 2026.



if integrity settings for collection are not strengthened. However, effective mitigations, including for collection mechanisms, will be put in place.

## Option 3 – Introduce a 30 per cent minimum tax on the taxable income of discretionary trusts with offsets for all beneficiaries

### Benefits

Option 3 would partially achieve the policy objective of improving the fairness and sustainability of the tax system. While this option would reduce some of the differences in tax outcomes between users of discretionary trusts and taxpayers in otherwise similar circumstances, it would retain other differences in tax outcomes. By extending the eligibility for the non-refundable minimum tax offset to corporate beneficiaries, Option 3 would retain much of the existing ability to combine discretionary trust flexibility with corporate tax deferral. As such, discretionary trusts would be expected to continue to distribute to beneficiaries in a tax-effective manner, including to beneficiaries with carried forward losses and to corporate beneficiaries to defer tax for underlying shareholders.

Corporate beneficiaries' access to the non-refundable minimum tax offsets would reduce their tax liabilities relative to Option 2.

Some submissions have suggested that such an option could increase revenue more than Option 2, as more small businesses would pay the 30 per cent minimum tax on trusts rather than restructure to access the small business corporate tax rate of 25 per cent.<sup>16</sup> While a subset of trusts (which largely do not have corporate beneficiaries) would be expected to pay more tax as they have fewer avenues to restructure, trusts with corporate beneficiaries whose shareholders expect to pay more than 30 per cent tax on dividends would likely pay less tax under this proposal relative to Option 2 as it preserves opportunities to use corporate beneficiaries to defer income and to stream different types of income to beneficiaries where that income receives the most favourable tax treatment.

The additional revenue from the first group is expected to be more than offset by the reduction in revenue from the second group. Therefore, while Option 3 goes some way towards improving the sustainability of the tax system, it would result in less revenue generated compared with Option 2.

### Costs

Like Option 2, this option would increase tax liabilities and impose compliance costs for some taxpayers.

However, the distributional outcomes would be different. Relative to Option 2, some trusts (which largely do not have corporate beneficiaries) would be expected to pay more tax. This includes some small businesses. The absence of roll-over relief or an electable regime will, where restructuring costs are sufficiently high, mean a small business would not change its structure to pay less tax than that payable under the minimum tax. This also means it may retain a structure that may not be the most appropriate from an operational, financial or growth perspective.

As with Option 2, compliance costs are expected to be relatively targeted under Option 3.

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<sup>16</sup> Pitcher Partners Advisors Proprietary Limited submission to Exposure draft consultation – *Minimum tax on discretionary trusts*, September 2026.



This option will also lead to one-off implementation costs as well as ongoing costs due to increased compliance requirements (see Appendix A for details). Similar judgements and the use of average costs have been adopted as under Option 2.

The one-off implementation costs are estimated to be \$602 million. These costs consider the various options available to users of discretionary trusts and their associated costs on average. This includes:

- The cost for business and non-business trusts to receive advice and continue their use of discretionary trusts arrangements.
- The cost for corporate beneficiaries to understand the new tracking processes for minimum tax income and associated integrity rules, noting that these costs may spread further to entities receiving distributions directly and indirectly from discretionary trusts.
- The cost for tax agents to understand the new rules, assess implications and update trust reporting and notification processes for both the minimum tax and separate tracking processes.
- The cost to beneficiaries to learn about the changes and verify their minimum tax offset in the first year.

The ongoing costs are estimated to be \$97 million per year. This includes annual costs for business and non-business trusts to comply with the new arrangements, including calculating the minimum tax (see Appendix A for details). This also includes additional ongoing compliance costs for corporate beneficiaries of discretionary trusts, as those companies would need to establish and maintain a separate tracking process and comply with a new legislative framework. Shareholders of corporate beneficiaries are also likely to incur some additional (unquantified) ongoing costs under this option.

In the absence of the expanded roll-over relief or the electable regime (available under Option 2), many discretionary trusts may not be able to reduce their ongoing compliance costs due to continued complexity of structures.

Like Option 2, this option would also require funding for the ATO to implement the minimum tax, including through systems changes and collection mechanisms. Similarly, there are also collection and administrability risks in this option as set out in Option 2.

Environmental and competition impacts are expected to be the same as for Option 2.

## Distributional impacts

The benefits of Options 2 and 3 accrue broadly to the Australian community to support a fairer and more sustainable tax system.

Distributional analysis indicates the measure is targeted at arrangements predominantly used by higher-income households and wealthier families (see Section 1). Under Option 2, the majority of trusts with over \$1 million in trust income are expected to pay more tax based on historical distribution patterns. In contrast, Option 3 is not anticipated to raise significant revenue from trusts with over \$1 million in trust income.



Around 350,000 active small businesses (less than 15 per cent of all active small businesses) operate through a discretionary trust structure. Accordingly, the overwhelming majority of small businesses will not be affected by these changes. More small businesses are expected to be worse off under Option 3 than under Option 2, partly because they would not have the option to restructure using the roll-over relief or electable regime.

Discretionary trusts are less commonly used by medium and large business, with only 7 per cent using discretionary trust structures.<sup>17</sup>

Compliance costs are more concentrated and would fall mainly on users of discretionary trusts as the policy aims to reduce differences in tax outcomes from taxpayers in otherwise similar circumstances, including wage earners.

Men and women are represented in broadly equal numbers among all trust beneficiaries, with men receiving a larger share of total trust income due to higher average distributions, while women have slightly higher median distributions. Marginally more women (around 930,000) than men (around 910,000) reported trust income in 2022–23.<sup>18</sup> As trust use is more strongly associated with household wealth and tax planning behaviour than gender, the proposal is not expected to materially affect gender economic outcomes. Although evidence is limited by the absence of household level and intra family data, the proposal is assessed as having a neutral gender impact.

## Community organisations

Under both options, the minimum tax would not apply to distributions to charities and deductible gift recipients, or to other income tax-exempt entities up to a cap. Charitable trusts will also be excluded from the minimum tax.

As the tax, if any, would be payable by the trustee, these entities can continue to receive donations and distributions from discretionary trusts and are not expected to face significant additional compliance burden (see Appendix A).

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<sup>17</sup> Including businesses with turnover greater than \$10 million.

<sup>18</sup> The Treasury, *2025–26 Tax Expenditures and Insight Statement*, Chapter 2 Distributional analysis, 2.17 Trust distributions to individuals, 2025.



## 5. Consultation

The Government has undertaken public consultation on the design and implementation of the minimum tax on discretionary trusts.

The Government released a consultation paper from 8 to 31 July 2026 to receive feedback from stakeholders on key aspects of the design and implementation of the minimum tax, including expanded roll-over relief, the treatment of excess franking credits, and collection mechanisms for the minimum tax. The Government released exposure draft legislation from 3 to 18 September 2026 to provide further opportunity for stakeholder feedback on the proposed operation of the minimum tax, expanded roll-over relief and the electable regime.

Treasury received 595 submissions (across both consultations) from individuals, businesses, not-for-profit organisations, peak bodies, tax practitioners, law firms and others. Treasury also met with a range of stakeholders through roundtable and bilateral meetings. Key issues raised related to the definition of a discretionary trust, the treatment of charitable beneficiaries, utilisation of tax losses, and costs of restructuring (including commercial costs and state and territory duties). Stakeholders also raised concerns with the treatment of the distributions to a corporate beneficiary, which do not attract a minimum tax offset.

In response to feedback, the exposure draft legislation clarified the definition of fixed trusts across the tax law and the discretionary trusts subject to the minimum tax. This includes an exemption for the share of income allocated to income tax-exempt entities (such as charities) with some conditions. The draft legislation also incorporated an electable regime to mitigate the costs of restructuring out of discretionary trusts, as well as allowing excess franking credits to be refunded to the trustee.

Option 3, which extends eligibility for non-refundable minimum tax offsets to corporate beneficiaries, drew on stakeholder suggestions for alternative mechanisms to impose the minimum tax.

Treasury has consulted, and will continue to consult, closely with the ATO on policy and legislative development, including systems, reporting, assessment and payment processes.

## 6. Preferred policy option and implementation

### Preferred policy option

This impact assessment identifies the preferred policy option as that with the highest net benefit that meets the policy objectives. The assessment reflects the best available data, evidence and analysis at the time it was undertaken.

Option 2 best achieves the policy objective of improving the fairness and sustainability of the tax system. It more effectively addresses the range of behaviours that can result in different tax outcomes between users of discretionary trusts and taxpayers in otherwise similar circumstances, including wage earners, while preserving flexibility for taxpayers to adopt alternative structures where appropriate.

Specifically, Option 2 addresses both income-splitting opportunities and the ability to use discretionary trusts and corporate beneficiaries together to defer taxation. By denying non-refundable minimum tax offsets to corporate beneficiaries, it more comprehensively reduces tax-driven structuring advantages than Option 3. It is also estimated to increase the tax payable by larger trusts (those with over \$1 million in trust income) based on historical distribution patterns, compared with little change for Option 3. As a result, it provides a stronger fairness outcome and is expected to make a greater contribution to the long-term sustainability of the tax system. In contrast, Option 1 does not achieve the objectives of the policy.

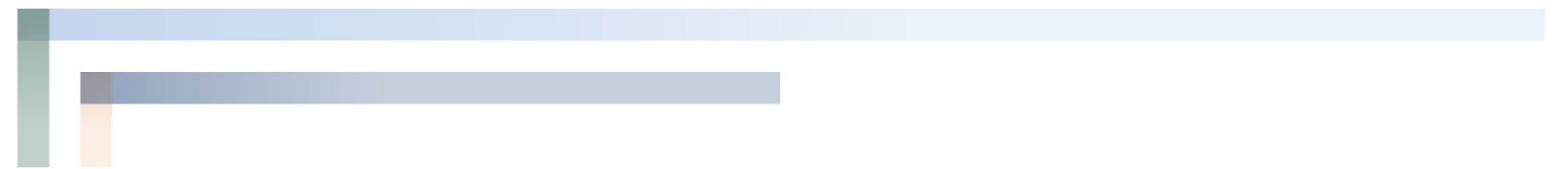
Option 2 will impose significant implementation and ongoing compliance costs. However, these impacts are mitigated by the availability of alternative structures, including fixed trusts, companies (which may be accessed through transitional roll-over relief) and the electable regime, including through allowing use of existing losses to some extent. On balance, it is considered that these costs are justified by the stronger fairness and sustainability outcomes achieved under Option 2. The ongoing costs are also less than the ongoing compliance costs under Option 3.

### Implementation and transition

The minimum tax measure will commence on 1 July 2028. It will be implemented through amendments to Commonwealth taxation law, supported by changes to ATO systems, reporting, assessment and payment processes. Treasury will continue to work closely with the ATO on legislative and administrative design and with affected stakeholders and digital service providers to support readiness.

Transitional support includes expanded roll-over relief for 3 years from 1 July 2027 as well as the electable regime, which will be available for existing discretionary trusts for the 2028–29 income year, and is expected to reduce restructuring costs.

The Australian Small Business and Family Enterprise Ombudsman (ASBFEO) will be available to assist small businesses to understand the options available to them and where they can get further advice. ASIC will support small businesses that wish to incorporate.

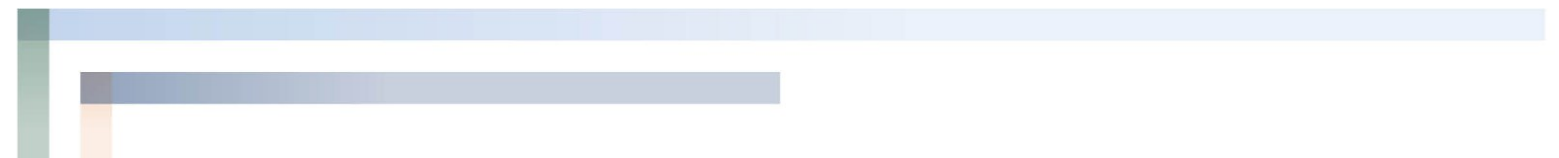


## Implementation challenges and risk management

Trustees, beneficiaries and practitioners will need to understand and implement new tax, reporting and payment obligations. Consequences may include upfront professional, systems and commercial costs. Where a further tranche of legislation is required to finalise implementation of this measure, it will be necessary to consider interactions with existing law. Clear legislation, guidance, sufficient lead time, roll-over relief and the electable regime will assist affected taxpayers to adjust.

There is a risk that taxpayers will develop alternative planning strategies. Unexpected behavioural changes, entity choice and emerging arrangements may arise and will be monitored.

There is a minor risk that ATO collection mechanisms are not developed in time for the commencement of the minimum tax. These risks could reduce collections if not effectively managed. Treasury will work closely with the ATO to ensure legislative and administrative collection mechanisms are developed.



## 7. Evaluation

The measure will be subject to ongoing monitoring. Monitoring activities will be undertaken jointly by Treasury and the ATO to support successful implementation and operation of the measure and will identify emerging behavioural responses or administrative issues. Monitoring will include review of tax return and administrative data for trustee compliance, use of roll-over relief and the electable regime, restructuring activities, distribution patterns, revenue outcomes and changes in the use of discretionary trusts, companies and other entities.

Given the commencement date of 1 July 2028 for the minimum tax, the roll-over relief period starting on 1 July 2027 and ending on 30 June 2030, and the need to observe behavioural responses over time, the Government will consider the timing for an evaluation in the future.

## Appendix A – Regulatory burden methodology

This appendix details the methodology used to estimate the compliance costs of Options 2 and 3. Option 1 (status quo) will have no new compliance cost.

The regulatory burden methodology follows the Office of Impact Analysis (OIA) Regulatory Burden Measurement framework and considers the number and cost per hour of completing a task, as well as the populations affected. The estimates presented in this appendix represent judgements based on the best available information on the population of existing trusts (from the *ATO Taxation Statistics 2022–23*), for which data are limited, and how those trusts and any future trusts are likely to respond to the proposed policy changes, which is inherently uncertain.

Key judgements in the framework were developed with input from the ATO, ASBFEO, the Tax Practitioners Board, and ASIC, and were informed by stakeholder feedback, such as from CPA Australia.<sup>19</sup> In particular, most assumptions about the number of hours required to complete compliance tasks for different cohorts were informed by the ATO's general compliance cost model. The model estimates compliance costs across a range of compliance activities and affected populations, drawing on survey data collected directly from taxpayers. The estimates are based on average costs across a wide range of trusts; given the differing purposes for which discretionary trusts are used and the differing complexities of the structures of which they form, the actual costs for any particular trust or group of trusts could be significantly different from the average.

The default cost per hour is assumed to be \$91.54 based on the OIA's work-related labour costs with overhead costs – which accounts for non-wage labour on-costs (e.g. payroll tax, superannuation) and overhead costs (e.g. rent, utilities). This was used because trusts are used by a broad range of individuals and businesses and cover a range of compliance processes. For individual beneficiaries, the cost per hour is assumed to be \$41.00, which is the OIA's non-work-related labour cost, as the impact on individuals is not in the course of their employment. It is acknowledged that the fees of tax agents may be higher but there is limited authoritative data on the fees they charge.

The estimated regulatory burden below comprises the costs faced by tax agents as well as the cost faced by these affected populations for services performed by either tax practitioners or trustees themselves.

The populations, regulatory activity costs, and population costs have been rounded.

Direct taxation costs – such as the cost of paying the minimum tax itself, or state and territory duties incurred during restructures – are excluded, as these are not considered regulatory costs in the Regulatory Burden Measurement framework. The framework divides impacted populations into businesses, community organisations and individuals. For the purposes of this compliance costing, 'non-business trusts' are included in the 'individuals' population.

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<sup>19</sup> CPA Australia submission to Exposure draft consultation – Minimum tax on discretionary trusts, September 2026, p. 34. Stakeholders were expressly invited to provide input on compliance costs, including the number of hours of advice required.

## Option 2 – Introduce a 30 per cent minimum tax on the taxable income of discretionary trusts with offsets for non-corporate beneficiaries and support for restructuring via roll-over and election

In 2022–23, Australia had around 840,000 discretionary trusts,<sup>20</sup> most of which are in the scope of the minimum tax. The regulatory burden of the minimum tax, and its downstream effects, will impact the trustees and individual beneficiaries of these trusts. Most of these affected parties are likely to use tax agents to complete their tax returns, advise on other tax matters, assist with annual trust distribution resolutions, and assist trustees undergoing restructures or elections.

The proposed minimum tax is expected to impose regulatory burden on different cohorts:

- **Trusts with low advice requirements** – There are a range of trusts that are not expected to need significant advice as a result of the implementation of the minimum tax. These trusts are not expected to restructure as a result of the minimum tax because the beneficiaries already pay a higher marginal rate than 30 per cent, the trustee will choose to pay the minimum tax on an ongoing basis to continue to access the non-tax benefits of a discretionary trust or the trustee can change distribution patterns or make business decisions (such as paying beneficiaries as employees) to mitigate the impact of the minimum tax. This group will also include some low-income or loss-making trusts that are part of a broader group.
- **Trusts with high advice requirements** – Some discretionary trusts may restructure to other entities, such as fixed trusts or companies, using the associated roll-over relief. These trusts may face higher up front restructuring costs. Some discretionary trusts may opt-in to the electable regime and will face somewhat smaller upfront compliance costs compared with restructuring, but still higher than the low advice cohort.
- **Individual beneficiaries** – Individual beneficiaries will face upfront costs to learn about the changes and verify offsets. Corporate beneficiaries are assumed to not face any additional compliance cost as they are not eligible for the offset under Option 2, although the number of corporate beneficiaries may change under this Option.
- **Tax agents** – Tax agents will require time to understand new rules, assess implications, update trust reporting and notification processes.

### Estimated populations

Table 1 shows the estimated populations used to calculate the compliance costs for different cohorts for Option 2. This includes the number of business and non-business discretionary trusts estimated to have low or high advice requirements. It also includes the number of individual beneficiaries and tax agents.

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<sup>20</sup> ATO Taxation Statistics 2022–23.

Fixed trusts are not assumed to face compliance costs as they are excluded from the minimum tax. The new definition of fixed trusts introduced by this option will ensure that trusts with no material discretionary elements are exempt from the minimum tax. The definition adds an additional path by which fixed trusts can establish they are fixed, adding to and not interfering with the operation of the current definition. Therefore, all existing fixed trusts will continue to meet the new definition and face no additional compliance costs. Existing discretionary trusts which meet the new fixed trust definition may seek advice on this new definition. For the purposes of this calculation, these trusts are considered as part of the 'low-advice' trusts population, noting that these trusts will not be subject to the minimum tax.

**Table 1: Estimated populations for Option 2**

| Population                             | Business | Non-business | Total   |
|----------------------------------------|----------|--------------|---------|
| Number of discretionary trusts*        | 350,000  | 490,000      | 840,000 |
| Low advice requirements <sup>^</sup>   | 220,000  | 300,000      | 520,000 |
| High advice requirements               | 130,000  | 190,000      | 320,000 |
| Individual beneficiaries <sup>21</sup> | n/a      | n/a          | 810,000 |
| Tax agents <sup>22</sup>               | n/a      | n/a          | 47,000  |

\* As announced at the 2026–27 Budget. This includes some discretionary trusts that will be excluded from the minimum tax, including discretionary testamentary trusts and trusts that meet the amended definition of a 'fixed trust' but were previously considered discretionary.

<sup>^</sup> Includes not affected discretionary trusts and those that are affected but don't restructure or elect.

## Trusts with low advice requirements

The majority of discretionary trusts are not expected to need significant financial advice as a result of the implementation of the minimum tax. These trusts are not expected to restructure or elect, and are assumed to face upfront and ongoing compliance costs.

These low-advice trusts may be unaffected by the minimum tax, as they already pay over 30 per cent tax on their discretionary trust taxable income or have little or no taxable income. This population also includes trusts that may be affected by the minimum tax, but choose to remain as discretionary trusts subject to the minimum tax. These trusts may change distribution patterns, pay employees wages or salaries, or respond to the minimum tax in various other ways.

This cohort of trusts is expected to seek upfront advice on the implications of the minimum tax for their specific circumstances, including available distribution and remuneration choices, options to restructure or elect, and the implications of the new fixed trust definition. The time cost may also include identifying appropriate advisers and locating trust documentation for trust users that may not have a regular adviser. A minority of these trusts may have previously been considered discretionary and need to seek advice to confirm they meet the new fixed trust definition and are exempt from the minimum tax.

21 The Treasury, 2026–27 Budget Tax Explainer, *Minimum tax on discretionary trusts*, 2026.

22 Tax Practitioners Board, *Annual Report 2024–25*, 2024, p.6.



There will be varying degrees of complexity of the advice received for these types of trusts, reflecting their individual circumstances. While some of these trusts will receive sophisticated advice to fully understand the consequences of all options available to them, many are expected to seek little advice, reflecting that they reported no or negligible income, or they form part of a group of trusts, with advice sought at the group level (with this advice captured in the high-complexity advice group).

The low-advice trusts are assumed to receive an average of 6 hours for businesses and 4 hours for non-businesses of advice upfront. This cost is estimated to apply to a population of 220,000 business trusts and 300,000 non-business trusts. This is similar to some industry estimates, for example CPA Australia estimated that the simplest 250,000 trusts will seek 2 to 3 hours of advice, and the 320,000 slightly more complex trusts will seek 5 to 8 hours of advice.<sup>23</sup> Therefore, the one-off implementation costs to low-advice trusts are expected to be \$121 million for business trusts and \$110 million for non-business trusts.

These trusts that do not choose to restructure or elect will also face ongoing costs including annual minimum tax calculations. These trusts already make determinations, lodge returns with a statement of distribution, and are likely to already notify beneficiaries of their entitlements. While there will be a range of time taken given different client complexity, it is expected tax agents will take on average 1 hour per client each year in extra compliance, in addition to what they would have completed before the minimum tax was introduced. Therefore, the ongoing cost for minimum tax trusts are expected to be \$20 million for businesses and \$27 million for non-businesses per year.

## Trusts with high advice requirements – those that restructure

The roll-over relief will support affected small businesses and others that choose to restructure into other arrangements, such as companies or fixed trusts. Income tax consequences will be disregarded for these restructuring entities under the roll-over relief, however other restructuring costs may remain.

The one-off implementation costs of restructuring will differ across trusts, but may include renegotiating existing arrangements, contracts, leases, and licences, tax and legal advice, accounting and governance changes, valuations, ASIC fees and obligations, as well as other consequential compliance and advisory costs for associated companies.

Some restructures will be relatively straightforward, such as simply involving transfer of ownership of one asset to an individual beneficiary. Others may require more complex transfers of a range of assets to various beneficiaries. Trusts considering restructuring or making an election will consider the lifetime tax consequences of each option. Those facing higher restructure costs are more likely to consider the alternative election option.

While there will be a wide range in the estimated cost of each restructure depending on complexity, the average restructure is assumed to require about 120 hours of work for business trusts and 25 hours for non-business trusts. Therefore, average restructure costs are expected to be around \$11,000 for businesses and around \$2,000 for non-businesses. These transitional costs are considered as part of the overall regulatory burden costs and will occur over the 3-year roll-over relief period, though most trusts are expected to complete their restructure within one year.

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23 CPA Australia submission to Exposure draft consultation – *Minimum tax on discretionary trusts*, September 2026, p. 33.



It is not possible to accurately predict how many trusts will undertake a restructure under the roll-over relief rather than an election. Therefore, a range is used to estimate the population of trusts that will fall into this category, and the estimated cost to this population:

- Between 10 and 30 per cent of the 130,000 business trusts with high advice requirements are assumed to restructure. This will result in between \$143 million and \$428 million in one-off implementation costs.
- Between 5 and 25 per cent of the 190,000 non-business trusts with high advice requirements are assumed to restructure. This will result in between \$22 million and \$109 million in one-off implementation costs.

The proportion of non-business trusts assumed to restructure is smaller than for business trusts. Businesses may benefit more from restructuring as they will be able to access benefits including greater access to debt and equity financing. These advantages will be less relevant to non-business trusts, reducing their incentive to restructure.

Net ongoing costs for trusts that restructure into companies or fixed trusts have not been quantified. On the one hand, these trusts may have new ongoing compliance costs, depending on their new entity type. On the other hand, these trusts may have simpler tax affairs that require less time and compliance, including from removing multiple entity types, and will not have future restructuring costs if their businesses grow or they wish to take advantage of alternative financing options. New businesses are also more likely to be established with simpler structures.

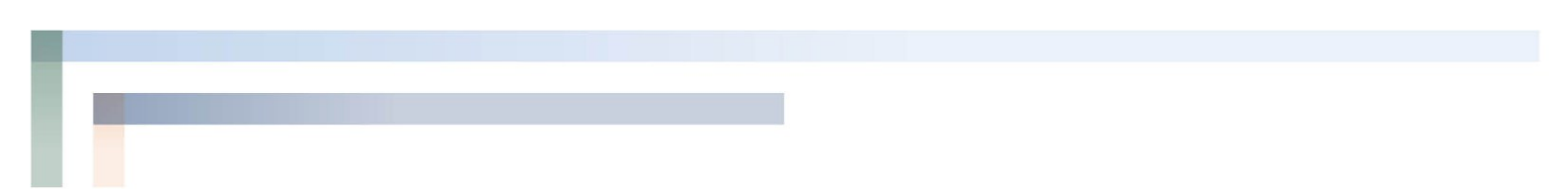
## **Trusts with high advice requirements – those that take the election**

The electable regime will give in-scope trusts an alternative option to formally restructuring out of discretionary trusts. Trusts which opt into the electable regime will be excluded from the minimum tax and therefore face no ongoing compliance costs for the minimum tax.

Compared with trusts that restructure, these trusts will face relatively smaller upfront costs of tax and legal advice, notification and reporting requirements for making the election. The election is assumed to take an average of 14 hours of work for business trusts and 6 hours of work for non-business trusts, as businesses are assumed to have more complex arrangements to consider on average.

It is not possible to accurately predict how many trusts will undertake an election compared with restructuring to other arrangements. Therefore, the inverse of the restructure range above is used to estimate the population of trusts that will fall into this category, and the estimated cost to this population:

- Between 70 and 90 per cent of the 130,000 business trusts with high advice requirements are assumed to undertake the election. This will result in between \$117 million and \$150 million in one-off implementation costs.
- Between 75 and 95 per cent of the 190,000 non-business trusts with high advice requirements are assumed to undertake the election. This will result in between \$78 million and \$99 million in one-off implementation costs.



The higher proportion of trusts undertaking the election is consistent with feedback from stakeholders welcoming the electable regime as an alternative to the roll-over relief.<sup>24</sup> If more businesses restructure than undertake the election this will increase the upfront cost but not affect the ongoing costs as calculated (see Appendix A for calculation details).

These trusts are assumed to face these upfront costs in the 2028–29 income year in which the election is available.

Net ongoing costs for election trusts are expected to be small but have not been quantified. Trustees will retain full discretion and will continue to consider their distribution options each year to ensure distributions are made consistent with the trust deed, as per existing practice. This will include consideration of whether to make distributions in line with their nominations or to revoke the election in each income year. If they choose to exercise their discretions in ways consistent with their nominations, they will need to ensure their entitlements match their nominations and that their nominated beneficiaries remain eligible each year.

## Individual beneficiaries

Individual beneficiaries will face implementation costs as they learn about the changes and verify their minimum tax offset in the first year. This is assumed to take an average of 2 hours per individual beneficiary and affect a population of 810,000 individuals, which was the number of adults who received distributions from discretionary trusts in 2022–23. Calculated using the OIA's non-work-related labour rate, this will create an implementation cost of \$66 million.

## Tax agents

Tax agents will need to spend time understanding the new rules and updating their processes to align with the new minimum tax. It is assumed there will be 47,000 affected tax agents.<sup>25</sup> The majority of these tax agents are registered as individuals, however this number also includes company registrations which may cover multiple tax agents.<sup>26</sup> There will be a wide range of impacts on these tax agents. Some are inactive (i.e. have no clients) and some will not deal with trusts, while others will deal mainly with trusts. Other professional service providers – including some accountants and lawyers – may also be affected by this measure; these costs are included in the estimated costs to trustees. On average, given this range of work on trusts, each tax agent or professional is estimated take 16 hours on average to learn the new minimum tax rules, including the new fixed trust definition, assess their implications, and update processes. The overall upfront cost of this training to tax practitioners and professionals is therefore expected to be \$69 million.

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24 Several stakeholders recognised the electable regime as an alternative to restructuring for some trusts. CA ANZ, CPA Australia, EY Australia, the Law Council of Australia, the Tax Institute, BDO submissions to Exposure draft consultation – *Minimum tax on discretionary trusts*, September 2026.

25 Tax Practitioners Board, Annual Report 2024–25, 2024, p.6.

26 Australian National Audit Office, *Australian Taxation Office's Engagement with Tax Practitioners Performance Audit Report*, 2022.

## Community organisations

Discretionary trusts may make donations or distributions to income tax exempt entities, including registered charities, deductible gift recipients (DGRs), and other income tax-exempt entities, like sporting clubs. All distributions from trusts to registered charities and deductible gift recipients will be excluded from the minimum tax. Distributions to other income tax-exempt entities will also be excluded, up to a cap. As these organisations are exempt, no regulatory impact on community organisations is estimated.

Trustees and their tax agents will consider the tax treatment of income tax-exempt entities when making distributions. This will require considering which entities are excluded, and which conditions apply to those exclusions. Trustees are assumed to make such considerations as part of their ordinary determinations of distributions, and these considerations have been included in the above calculations of ongoing costs for low-advice trusts.

## Regulatory burden estimate

Table 2 shows the estimated average annual regulatory costs for Option 2. This includes for businesses (business trusts and tax agents) as well as individuals (non-business trusts and individual beneficiaries). One-off costs are shown as annual costs over 10 years and ongoing costs are also shown as annual costs. Total annual regulatory costs are the sum of annual one-off costs and ongoing costs.

**Table 2: Estimated average regulatory costs for Option 2**

### Average regulatory costs (from business as usual)

| Change in costs<br>(\$ million)               | Business                            | Community<br>organisations | Individuals                         | Total change<br>in cost                |
|-----------------------------------------------|-------------------------------------|----------------------------|-------------------------------------|----------------------------------------|
| One-off costs<br>(annual over<br>10 years)    | \$60.9<br>(Range: \$48.2 to \$73.5) | \$0.0                      | \$33.0<br>(Range: \$29.7 to \$36.3) | \$93.9<br>(Range: \$78.0 to \$109.8)   |
| Ongoing costs<br>(annual)                     | \$20.1                              | \$0.0                      | \$27.5                              | \$47.6                                 |
| Total, by sector<br>(annual over<br>10 years) | \$81.0<br>(Range: \$68.4 to \$93.6) | \$0.0                      | \$60.5<br>(Range: \$57.2 to \$63.8) | \$141.5<br>(Range: \$125.6 to \$157.4) |

Note: Numbers may not add due to rounding.

## Option 3 – Introduce a 30 per cent minimum tax on the taxable income of discretionary trusts with offsets for all beneficiaries

Compliance costs for Option 3 have been calculated using the same methodology as Option 2.

However, the requirement for corporate beneficiaries to preserve and separately track tax attributes gives Option 3 a materially different compliance profile. The companies maintaining separate tracking will face higher compliance costs, and their shareholders, including corporate shareholders, will also likely face additional compliance steps.

Further, in the absence of expanded roll-over relief or the electable regime, many discretionary trusts may be confined to paying ongoing costs to comply with the minimum tax.

### Estimated populations

Table 3 shows the estimated populations used in calculating the compliance costs for different cohorts for Option 3. This includes the number of business and non-business discretionary trusts, individual beneficiaries and tax agents. Unlike Option 2, corporate beneficiaries and their underlying shareholders will also be affected.

**Table 3: Estimated populations for Option 3**

| Population                                    | Business | Non-business | Total   |
|-----------------------------------------------|----------|--------------|---------|
| Number of discretionary trusts*               | 350,000  | 490,000      | 840,000 |
| Corporate beneficiaries of minimum tax trusts | n/a      | n/a          | 220,000 |
| Individual beneficiaries                      | n/a      | n/a          | 810,000 |
| Tax agents                                    | n/a      | n/a          | 47,000  |

\* As announced at the 2026–27 Budget. This includes some discretionary trusts that will be excluded from the minimum tax, including discretionary testamentary trusts and trusts that meet the amended definition of a 'fixed trust' but were previously considered discretionary.

### All discretionary trusts

Under Option 3, all discretionary trusts are expected to be subject to the minimum tax on an ongoing basis as there is no expanded roll-over relief or electable regime.

These trusts are assumed to face upfront costs for advice on the implications of the minimum tax and how taxpayer trusts should react. The upfront costs for these trusts are assumed to be the same as under Option 2, taking 6 hours for businesses and 4 hours for non-businesses to receive advice about the minimum tax. The average upfront costs of these compliance activities are therefore expected to be \$192 million for business trusts and \$179 million for non-business trusts.

The ongoing compliance cost for these trusts is assumed to be similar to Option 2, as these trusts will still be expected to spend an additional 1 hour per year for annual minimum tax calculations, and beneficiary notifications for some. Therefore, the ongoing cost for minimum tax trusts are expected to be \$32 million for businesses and \$45 million for non-businesses per year.

## Corporate beneficiaries

Under Option 3, any corporate entity receiving distributions from a discretionary trust would be required to establish and maintain a process to preserve and separately track the tax character of distributions from the discretionary trusts and the accompanying non-refundable minimum tax offset. While existing accounting systems may identify trust distributions when received, they do not generally require that character to be maintained as an ongoing tax attribute through subsequent distributions and corporate entities. Some of these corporate beneficiaries would likely need advice to understand, establish and maintain this separate tracking, while those with existing franking accounts will need to understand how the new separate tracking would operate in relation to their existing franking accounts.

The advice sought would include understanding how the rules operate, the compliance requirements, including correctly identifying and recording the non-refundable minimum tax offset separate to ordinary franking credits, maintaining and reconciling the relevant balances through retained earnings, losses and subsequent distributions, applying any ordering or utilisation rules, determining the treatment of credits where the company has insufficient tax liability and notifying shareholders of the type of offset or credit attached to dividends. Where a corporate beneficiary distributes to another company, these requirements would also flow through the corporate chain, requiring the recipient company to establish and maintain equivalent records to preserve the character of the non-refundable minimum tax offsets.

At least 220,000 corporate beneficiaries are expected to face these compliance costs, based on the number of unique companies receiving distributions from discretionary trusts over the 11-year period to 2022–23.<sup>27</sup> Assuming each corporate beneficiary takes 3 hours to complete the above compliance activities, this is expected to cost \$60 million in upfront implementation costs. These corporate beneficiaries are also expected to spend an additional 1 hour every year to comply with the new tracking rules (and any associated integrity rules) at an estimated cost of \$20 million per year. This cost is likely to grow to the extent that in the future a greater proportion of Australia's 1.3 million companies<sup>28</sup> also receive direct or indirect income from discretionary trusts and therefore must also comply with the tracking rules.

The underlying shareholders of corporate beneficiaries are also expected to face some (unquantified) additional ongoing compliance costs. These shareholders will need to consider the correct identification of the character of the offsets or franking credits they receive attached to dividends – as either refundable or not – each year and the different tax consequences that may apply. While this additional cost may be small, the number of shareholders may be significant. Under the assumption that each corporate beneficiary has at least one shareholder, who will need to engage in separate tracking, at least 220,000 individual shareholders will be expected to face ongoing compliance costs. To the extent that more companies are affected, a higher number of shareholders will also be affected.

## Individual beneficiaries

Individual beneficiaries will face the same costs as in Option 2. 810,000 individual beneficiaries are assumed to take an average of 2 hours in the first year to learn about and adjust to the changes. Calculated using the OIA's non-work-related labour rate, this will create an implementation cost of \$66 million.

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<sup>27</sup> Treasury analysis.

<sup>28</sup> ATO Taxation Statistics 2023–24.

## Tax agents

Tax agents are estimated to face higher compliance costs than under Option 2. In addition to spending time understanding the new rules and updating their processes to align with the new minimum tax regime, tax agents will also need to undertake training and update relevant processes with regard to separately tracking discretionary trust distributions and minimum tax offsets to corporate beneficiaries, including potentially through chains of trusts or companies. The 47,000 tax agents affected are expected to face an average of 24 hours of additional compliance and regulatory work, costing \$103 million in implementation costs.

## Community organisations

As in Option 2, community organisations are not expected to face compliance costs under Option 3.

## Regulatory burden estimate

Table 4 shows the estimated average regulatory costs for Option 3. This includes for businesses (business trusts, corporate beneficiaries and tax agents) as well as individuals (non-business trusts and individual beneficiaries). One-off costs are shown as annual costs over 10 years and ongoing costs are also shown as annual costs. Total annual regulatory costs are the sum of annual one-off costs and ongoing costs.

**Table 4: Estimated average regulatory costs for Option 3**

**Average regulatory costs (from business as usual)**

| Change in costs (\$ million)            | Business | Community organisations | Individuals | Total change in cost |
|-----------------------------------------|----------|-------------------------|-------------|----------------------|
| One-off costs (annual over 10 years)    | \$35.6   | \$0.0                   | \$24.6      | \$60.2               |
| Ongoing costs (annual)                  | \$52.2   | \$0.0                   | \$44.9      | \$97.0               |
| Total, by sector (annual over 10 years) | \$87.8   | \$0.0                   | \$69.4      | \$157.2              |

Note: Numbers may not add due to rounding.