Brotherhood of St Laurence
Working for an Australia free of poverty

Minimum tax on discretionary trusts

Brotherhood of St. Laurence

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Summary and recommendations

- BSL supports the proposed minimum tax on discretionary trusts on grounds of equity, revenue, progressivity and productivity.
- BSL supports the proposed exemption of charitable trusts from the minimum tax as it will preserve incentives for donations directed at reducing poverty and disadvantage, and support government objectives to increase philanthropic giving.
- BSL recommends the (understood) proposed exemption from a minimum tax for private ancillary funds (PAFs) and public ancillary funds (PuAFs) be made explicit before the final reforms are confirmed.
- BSL recommends that government examine ways to exempt from tax the charitable component (only) of donations from ordinary discretionary trusts, as applying a tax to these donations would reduce donations to reduce poverty and disadvantage and be inconsistent with the government's objective to increase philanthropic giving by 2030.
- BSL recommends government advance consideration and sector consultation of reforms to the deductible gift recipient (DGR) system recently recommended by the Productivity Commission.

1 The Brotherhood of St. Laurence and tax reform

The Brotherhood of St. Laurence (BSL) is a social justice organisation working towards an Australia free of poverty. Our purpose is to advance a fair Australia through our leadership on policy reform, our partnerships with communities and the quality of our services. Our approach is informed directly by people experiencing disadvantage and uses evidence drawn from our research, together with insights from our programs and services, to develop practical solutions that work.

BSL considers that tax settings have practical impacts on the livelihoods and wellbeing of people, households and communities experiencing disadvantage. They shape their ability to spend on essentials, save, and prepare for future economic and financial shocks. Tax settings also influence charitable giving to reduce poverty, and the ability of government to fund essential services that directly support the lives of people experiencing disadvantage. Tax settings also play an important role in shaping income and wealth inequality, with implications for economic growth and social cohesion. BSL welcomes the opportunity to provide input to inform proposed reforms to the taxation of discretionary trusts.

2 Minimum tax on discretionary trusts

Australia now has over one million trusts, of which around 840,000 are discretionary trusts. Discretionary trusts distribute in excess of $140 billion per year. They allow greater tax planning opportunities than other types of trusts,[1] and enable lower tax rates through financial tools not available to individuals without a trust, including workers who pay tax on wages.[2]

The distributional impacts of discretionary trusts are significant. The majority of trust income flows to the top earning 10 per cent of families, and approximately 90 per cent of total private trust wealth is held by the wealthiest 10 per cent of households (those with net worth above $2.3 million).[3]

Successive tax reviews since 1975 have identified concerns about discretionary trusts including: undermining tax integrity; inconsistent tax treatment of taxpayers; and creating system complexity and opportunities for tax avoidance.[4] BSL also notes Australia has a high use of trusts relative to international peers. In 2022–23 Australia had around 40 trusts per 1000 people, while the UK was estimated to have around 2 trusts per 1000 people and the USA had around 9 trusts per 1000 people.[5]

In the 2026–27 Budget, the Commonwealth announced the introduction of a 30 per cent minimum tax on discretionary trusts from 1 July 2028.

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[1] Minimum tax on discretionary trusts

[2] Budget 2026–27 Tax Explainer

[3] Ibid.

[4] The Asprey Report (1975), the Review of Business Taxation (1999), Australia's Future Tax System (2009) and Re: think (2015). See Budget 2026–27 Tax Explainer

[5] Budget 2026–27 Tax Explainer

Reasons for support

BSL supports the proposed minimum tax on discretionary trusts for reasons including:

- improving equity by better aligning tax paid on trust income with tax paid by workers. A 30 per cent minimum tax aligns with wage and salary earners who face a marginal rate of 30 per cent on annual income between $45,001 and $135,000[6]
- strengthening the revenue base to provide more sustainable funding for essential services that address poverty and disadvantage including education, health, disability, aged care and income support
- improving the progressivity of the tax system. Current arrangements allow some tax payers (usually high-income and high wealth) to use discretionary trusts to pay less tax relative to salary and wage earners on similar income levels (or pay similar tax to salary and wage earners on lower income levels)
- reducing incentives for unproductive and wasteful financial engineering to reduce tax.

Exemptions

Charitable trusts (trusts established solely for charitable purposes) are proposed to be exempt from the proposed taxes. BSL supports this exemption as it will preserve incentives for giving directed at reducing poverty and disadvantage and support the government's objective to double philanthropic giving by 2030.[7]

BSL understands the exemption of charitable trusts also applies to giving funds - private ancillary funds (PAFs) and public ancillary funds (PuAFs),[8] however this is not explicit in the Treasury discussion paper. BSL recommends this exemption be made explicit before final reforms are confirmed.

BSL notes ordinary (non-charitable) discretionary trusts[9] can also distribute to charities and are proposed to be subject to the minimum tax. This may result in some reduction to giving to reduce poverty and disadvantage, and conflict with the government's objective to increase philanthropic giving by 2030. An exemption for this component of distributions would also be consistent with the principle that all money donated to charitable purposes should flow to charitable purposes. BSL recommends that government examine ways to exempt from tax the charitable component of donations from these trusts. The method for applying such an exemption should avoid unnecessary administrative burden and include integrity measures to ensure donations are genuinely charitable.

[6] Budget 2026–27 Tax Explainer

[7] Labor to double philanthropic giving by 2030 - Media Release - Andrew Leigh MP

[8] This is aligned with the understanding of Institute of Community Directors Australia. Institute of Community Directors Australia | New tax on trusts has a sting in the tail for charities and NFPs

[9] Such trusts may also be used for other (non-charitable) purposes such as investment and tax planning.

A further consideration relates to the identification of eligible charities for tax exemptions. BSL notes the Productivity Commission recently conducted a comprehensive review of philanthropic giving in Australia (*Future foundations for giving*) and found that the current deductible gift recipient (DGR) system is poorly designed, overly complex and has no coherent policy rationale. This results in inefficient, inconsistent and unfair outcomes for charities, donors and the community.[10] Government has not yet responded fully[11] to the Productivity Commission report. BSL recommends the government advance consideration and sector consultation for recommended reforms.

[10] Future foundations for giving

[11] Government announced first steps in December 2024: Supporting philanthropic giving | Treasury Ministers and further steps in 2026: Boosting support for Australian charities | Treasury Ministers