

What is new in 2010 year tax return?

ENTREPRENEURS' TAX OFFSET – ADDITIONAL INCOME TEST

The entrepreneurs' tax offset (ETO) is a reduction of 25% of the tax eligible entities are liable to pay on their business income if they have aggregated turnover of \$50,000 or less. This tax offset starts to phase out when the business's aggregated turnover exceeds \$50,000 and ceases when their aggregated turnover reaches \$75,000.

Tax Laws Amendment (2010 measure No.1) Bill 2010 contains the changes to the ETO to apply additional income testing to the eligibility criteria for individuals.

The changes will apply for income years starting on or after 01 July 2009. They reduce the amount of ETO individuals can receive for their sole trader or partnership activities, or as beneficiaries of a trust, if their non-ETO income exceeds the relevant threshold. The new income test will ensure other sources of income, such as salary and wages, are considered. This means individuals with alternative sources of household income may not be eligible for the ETO.

Under the proposed income test, the ETO will be reduced where the non-ETO income exceeds the following threshold:

- \$70,000 for single individuals with no qualifying dependent
- \$120,000 individuals who had either of the following:
 - A spouse on the last day of the income year
 - A qualifying dependent on any day during the income year.

If a taxpayer does not meet the income test, the offset will be reduced by 20c for each dollar they earn above the

relevant threshold. This reduction is in addition to the phase-out that begins where the aggregated turnover exceeds \$50,000.

A taxpayer's non-ETO income is the sum of their:

- Taxable income
- Total reportable fringe benefit amount
- Reportable super contributions
- Total net investment loss

A taxpayer's non-ETO income does not include their net small business income (or share of) that is eligible for an ETO of greater than zero before applying the income test.

If you had a spouse on the last day of the income year, your non-ETO income will also include your spouse's:

- Taxable income
- Total reportable fringe benefits amount
- Reportable super contributions.
- Total net investment loss.

REMOVING 'TRUST CLONING' AND INTRODUCING A NEW LIMITED CAPITAL GAINS TAX ROLL-OVER

Recent changes to the Income Tax Assessment Act 1997 (ITAA 1997) remove the exception to capital gains tax (CGT) events E1 and E2, which allowed assets to be transferred between two trusts with the same beneficiaries and terms without triggering a CGT taxing point – commonly referred to as the 'trust cloning' exception. The changes also introduce a limited CGT roll-over for the transfer of assets between eligible trusts, provided certain conditions are met.

These changes were made by Tax Laws Amendment (2009 Measures No 6) Act 2010, which received royal assent on 24 March 2010.

Parliament has recently enacted changes to the ITAA 1997 that:

- Remove the trust cloning exception to the CGT events E1 and E2. This is because it could be used to change the ownership of an asset without a CGT taxing point. This potentially allowed taxpayers to eliminate their liabilities on accrued capital gains, which undermines the equity and integrity of the tax system
- Insert a new CGT roll-over for the transfer of assets between eligible trusts – new subdivision 126G
- Clarify that simply changing the trustee of a trust does not trigger a CGT taxing point

These changes apply to CGT events happening after 31 October 2008.

The roll-over disregards any capital gain or loss arising from the transfer of an asset from one trust (the 'transferring trust') to another trust (the 'receiving trust'). It also ensures that if the asset was acquired by the transferring trust before 20 September 1985 (that is, it is a pre-CGT asset), it will continue to be a pre-CGT asset following its transfer.

However, the roll-over cannot be chosen if either of the following apply:

- The receiving trust is a foreign trust for CGT purposes and the transferred asset is not taxable Australian property
- Either trust is a corporate unit trust or a public trading trust at anytime in the income year that the transfer occurs.

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