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VICCA NEWS

TESTAMENTARY TRUSTS

TAX ANALYSIS: BEFORE & AFTER 2026 BUDGET ANALYSIS FRANKED DIVIDENDS • INVESTMENT INCOME • INDIVIDUAL & CORPORATE BENEFICIARIES MAY 2026

Types of Testamentary Trust

The Budget draws an important line between different types of testamentary trusts. Understanding which category applies determines whether the 30% minimum tax bites:

- Fixed Testamentary Trusts: Fully excluded from the 30% minimum tax. These trusts have predetermined entitlements and are not discretionary.
- Discretionary Testamentary Trusts existing at 12 May 2026 (Budget night): Income from assets held at that date is excluded. However, income from assets acquired after Budget night may be caught — this detail awaits the legislation.
- New Discretionary Testamentary Trusts created after Budget night: Caught by the 30% minimum tax from 1 July 2028, the same as any other discretionary trust.
- Minor Beneficiaries (under 18): Income from testamentary trusts derived from assets of the deceased estate is “excepted trust income” and taxed at normal adult marginal rates (not penalty rates). This benefit is preserved.

WARNING*: The analysis below assumes a discretionary testamentary trust is caught by the new rules (i.e. created after Budget night, or income from post-Budget earnings).*

PART A: FULLY FRANKED DIVIDENDS

Scenario A1: Franked Dividend ($700 + $300 Franking) → Individual Beneficiary

The TT receives a fully franked dividend of $700 cash plus $300 franking credit from a company that paid tax at 30%. Grossed-up income = $1,000.

BEFORE Budget (Current Law)

The trust is a flow-through. Income and franking credits pass to the beneficiary.

Step	Event	Tax Paid	Running Cash
1	TT receives $700 cash + $300 franking credit = $1,000 grossed up	$0	$700 cash
2	Individual assessed on $1,000 at 47% = $470. Less $300 franking credit = $170 payable	$170	$530

Total tax (including company tax): $300 + $170 = $470 | Effective rate: 47% | Net: $530

AFTER Budget (Post 1 July 2028)

The trustee must pay 30% minimum tax at the trust level. Franking credits offset this liability.

Step	Event	Tax Paid	Running Cash
1	TT receives $700 cash + $300 franking = $1,000 grossed up	$0	$700 cash
2	Trustee pays 30% on $1,000 = $300. Franking credit of $300 fully offsets. Net trustee tax = $0	$0	$700 cash
3	Individual assessed on $1,000 at 47% = $470. **Non-refundable credit** for trustee tax of $300 (being the higher of the 30% minimum or franking offset). Top-up = $170	$170	$530

Total tax (including company tax): $300 + $0 + $170 = $470 | Effective rate: 47% | Net: $530

RESULT*: No change. Where the franking credits fully cover the 30% trustee minimum, the total tax outcome is identical at 47%.*

Scenario A2: Franked Dividend ($750 + $250 Franking) → Individual Beneficiary

The TT receives a fully franked dividend of $750 cash plus $250 franking credit from a 25% base rate entity company. Grossed-up income = $1,000.

BEFORE Budget (Current Law)

Step	Event	Tax Paid	Running Cash
1	TT receives $750 cash + $250 franking credit = $1,000 grossed up	$0	$750 cash
2	Individual assessed on $1,000 at 47% = $470. Less $250 franking credit = $220 payable	$220	$530

Total tax (including company tax): $250 + $220 = $470 | Effective rate: 47% | Net: $530

AFTER Budget (Post 1 July 2028)

The trustee must pay 30% minimum tax. Franking credits of $250 only partially offset the $300 trustee liability.

Step	Event	Tax Paid	Running Cash
1	TT receives $750 cash + $250 franking = $1,000 grossed up	$0	$750 cash
2	Trustee pays 30% on $1,000 = $300. Franking credit of $250 offsets. Net trustee tax = $50	$50	$700 cash
3	Individual assessed on $1,000 at 47% = $470. **Non-refundable credit** for $300 trustee tax (including franking offset). Top-up = $170	$170	$530

Total tax (including company tax): $250 + $50 + $170 = $470 | Effective rate: 47% | Net: $530

RESULT: *For a top-rate individual, total tax is still 47%. However, the trustee now has a $50 cash outflow that didn't exist before.*

Scenario A3: Franked Dividend ($700 + $300 Franking) → Company Beneficiary

The TT distributes to a company beneficiary (bucket company). Under the new rules, corporate beneficiaries receive NO credit for trustee tax.

BEFORE Budget (Current Law)

Step	Event	Tax Paid	Running Cash
1	TT receives $700 cash + $300 franking = $1,000 grossed up	$0	$700 cash
2	Company beneficiary assessed on $1,000. Pays 25% = $250. Less $300 franking credit = $0 payable (excess franking of $50 goes to franking account)	$0	$700 cash

Total tax at trust + company level: $300 (original company tax) + $0 = $300 | Effective rate: 30% (deferred)

The imputation system works: company tax already paid, no further tax until the dividend is received by the individual.

AFTER Budget (Post 1 July 2028)

Step	Event	Tax Paid	Running Cash
1	TT receives $700 cash + $300 franking = $1,000 grossed up	$0	$700 cash
2	Trustee pays 30% on $1,000 = $300. Franking credit of $300 offsets. Net trustee tax = $0	$0	$700 cash
3	Company receives $700. **No credit** for trustee tax. Company assessed on its entitlement. Pays 25% on $700 = $175 (franking credit treatment for company is unclear — this assumes no credit passes)	$175	$525 in company

Total tax at trust + company level: $300 + $0 + $175 = $475 | Effective rate: 47.5%

If the company then pays a dividend to an individual at 47%:

Step	Event	Tax Paid	Running Cash
4	Company pays fully franked dividend: $525 cash + $175 franking = $700 grossed up. Individual at 47% on $700 = $329. Less $175 franking credit = $154	$154	$371

TOTAL tax on original $1,000: $300 + $0 + $175 + $154 = $629 | Effective rate: 62.9% | Net: $371

RESULT*: The corporate beneficiary route is no longer commercially viable. Effective rate jumps from 30% (deferred) to 62.9% on full extraction.*

Scenario A4: Franked Dividend ($750 + $250 Franking) → Company Beneficiary BEFORE Budget (Current Law)

Step	Event	Tax Paid	Running Cash
1	TT receives $750 cash + $250 franking = $1,000 grossed up	$0	$750 cash
2	Company assessed on $1,000. Pays 25% = $250. Less $250 franking credit = $0	$0	$750 cash in company

Total tax at trust + company level: $250 + $0 = $250 | Effective rate: 25% (deferred)

AFTER Budget (Post 1 July 2028)

Step	Event	Tax Paid	Running Cash
1	TT receives $750 cash + $250 franking = $1,000 grossed up	$0	$750 cash
2	Trustee pays 30% on $1,000 = $300. Less $250 franking = $50 net trustee tax	$50	$700 cash
3	Company receives $700. **No credit for trustee tax**. Company assessed on entitlement, pays 25% on $700 = $175	$175	$525 in company

Total tax at trust + company level: $250 + $50 + $175 = $475 | Effective rate: 47.5%

Full extraction to individual at 47%:

Step	Event	Tax Paid	Running Cash
4	Franked dividend: $525 + $175 franking = $700. Tax at 47% = $329. Less $175 franking = $154	$154	$371

TOTAL tax on original $1,000: $250 + $50 + $175 + $154 = $629 | Effective rate: 62.9% | Net: $371

PART B: INVESTMENT INCOME (UNFRANKED)

The TT earns $1,000 of investment income (e.g. interest, rental income). No franking credits are involved.

Scenario B1: Investment Income $1,000 → Individual Beneficiary (Top Rate)

BEFORE Budget (Current Law)

Step	Event	Tax Paid	Running Cash
1	TT earns $1,000 investment income	$0	$1,000
2	Individual assessed on $1,000 at 47%. Pays $470	$470	$530

Total tax: $470 | Effective rate: 47% | Net: $530

AFTER Budget (Post 1 July 2028)

Step	Event	Tax Paid	Running Cash
1	TT earns $1,000 investment income	$0	$1,000
2	Trustee pays 30% on $1,000 = $300. No franking credits to offset	$300	$700
3	Individual assessed on $1,000 at 47% = $470. Less $300 **non-refundable trustee credit** = $170 top-up	$170	$530

Total tax: $300 + $170 = $470 | Effective rate: 47% | Net: $530

RESULT: *No change for top-rate individuals. Total is still 47%. The trustee now pre-pays $300 which the individual credits against their liability, but the Trust Tax Credit cannot create a refund.*

Scenario B2: Investment Income $1,000 → Individual Beneficiary (Low Rate — 19%)

This is where the non-refundable nature of the credit causes real damage. The beneficiary has taxable income (including the trust distribution) that puts them in the 19% bracket.

BEFORE Budget (Current Law)

Step	Event	Tax Paid	Running Cash
1	TT earns $1,000 investment income	$0	$1,000
2	Individual assessed on $1,000 at 19% = $190	$190	$810

Total tax: $190 | Effective rate: 19% | Net: $810

AFTER Budget (Post 1 July 2028)

Step	Event	Tax Paid	Running Cash
1	TT earns $1,000 investment income	$0	$1,000
2	Trustee pays 30% on $1,000 = $300	$300	$700
3	Individual assessed on $1,000 at 19% = $190. Credit of $300 available but **NON-REFUNDABLE**. Only $190 can be used. $110 credit is LOST	$0	$700

Total tax: $300 + $0 = $300 | Effective rate: 30% | Net: $700

RESULT: *The low-rate beneficiary loses $110 in credits. Effective tax rate jumps from 19% to 30%. This is the key policy intent — the distribution of income to low-rate beneficiaries is penalised as no credit is available.*

Example: *For a beneficiary on the tax-free threshold ($18,200) with no other income, the entire $300 credit would be lost — a pure 30% tax on income that was previously tax-free.*

Scenario B3: Investment Income $1,000 → Company Beneficiary

BEFORE Budget (Current Law)

Step	Event	Tax Paid	Running Cash
1	TT earns $1,000 investment income	$0	$1,000
2	Company beneficiary assessed on $1,000. Pays 25% = $250	$250	$750 in company

Tax at trust + company level: $250 | Effective rate: 25% (deferred)

Company retains $750. Franking account = $250. Tax is deferred until dividend paid to individual.

AFTER Budget (Post 1 July 2028)

Step	Event	Tax Paid	Running Cash
1	TT earns $1,000 investment income	$0	$1,000
2	Trustee pays 30% on $1,000 = $300	$300	$700
3	Company receives $700. No credit for trustee tax. Company assessed on $700 at 25% = $175	$175	$525 in company

Tax at trust + company level: $300 + $175 = $475 | Effective rate: 47.5%

Full extraction to individual at 47%:

Step	Event	Tax Paid	Running Cash
4	Company pays franked dividend: $525 + $175 franking = $700 grossed up. Tax at 47% on $700 = $329. Less $175 franking credit = $154	$154	$371

TOTAL tax on $1,000: $300 + $175 + $154 = $629 | Effective rate: 62.9% | Net: $371

RESULT: *Investment income flowing through a company beneficiary hits the same 62.9% wall. The denied credit at the corporate level creates devastating double taxation.*

MASTER SUMMARY: ALL SCENARIOS

Franked Dividends ($700 + $300 Franking = $1,000 Grossed Up)

Scenario	Before Budget	After Budget	Change
TT → Individual (47%)	47% ($530 net)	47% ($530 net)	No change
TT → Company (at trust + coy level)	30% deferred	47.5%	+17.5%
TT → Company → Individual (full extraction)	47%	62.9% ($371 net)	+15.9%

Franked Dividends ($750 + $250 Franking = $1,000 Grossed Up)

Scenario	Before Budget	After Budget	Change
TT → Individual (47%)	47% ($530 net)	47% ($530 net)	No change
TT → Company (at trust + coy level)	25% deferred	47.5%	+22.5%
TT → Company → Individual (full extraction)	47%	62.9% ($371 net)	+15.9%

Investment Income ($1,000 Unfranked)

Scenario	Before Budget	After Budget	Change
TT → Individual (47%)	47% ($530 net)	47% ($530 net)	No change
TT → Individual (19%)	19% ($810 net)	30% ($700 net)	+11% — $110 lost
TT → Individual (0% / tax-free)	0% ($1,000 net)	30% ($700 net)	+30% — $300 lost
TT → Company (at trust + coy level)	25% deferred	47.5%	+22.5%
TT → Company → Individual (full extraction)	47%	62.9% ($371 net)	+15.9%

CAVEAT: *This Budget measure is not yet law. The legislation has not been drafted. Key design questions remain unresolved, including how franking credits interact with the trustee-level minimum tax, how the credit regime operates for corporate beneficiaries, the timing of tax credits and the scope of exclusions for testamentary trusts. All scenarios above are based on the Treasury fact sheet and Budget papers as at May 2026. Always seek professional advice before making structural decisions.*