Year-end tax planning

What you need to know for 30 June 2022

May 2022

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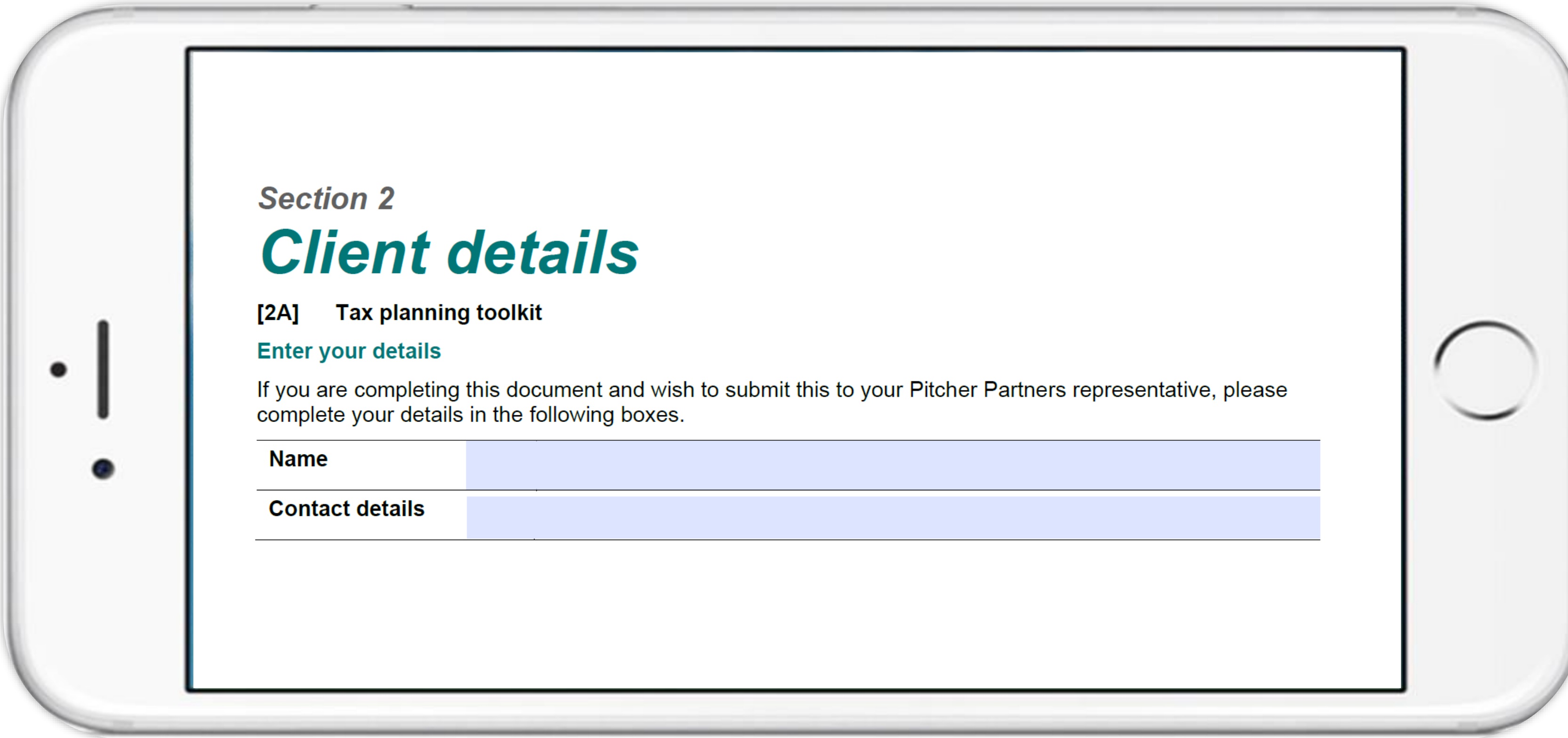
Tax planning toolkit

Our guide to tax planning



Section 2

Client details

[2A] Tax planning toolkit

Enter your details

If you are completing this document and wish to submit this to your Pitcher Partners representative, please complete your details in the following boxes.

Name	
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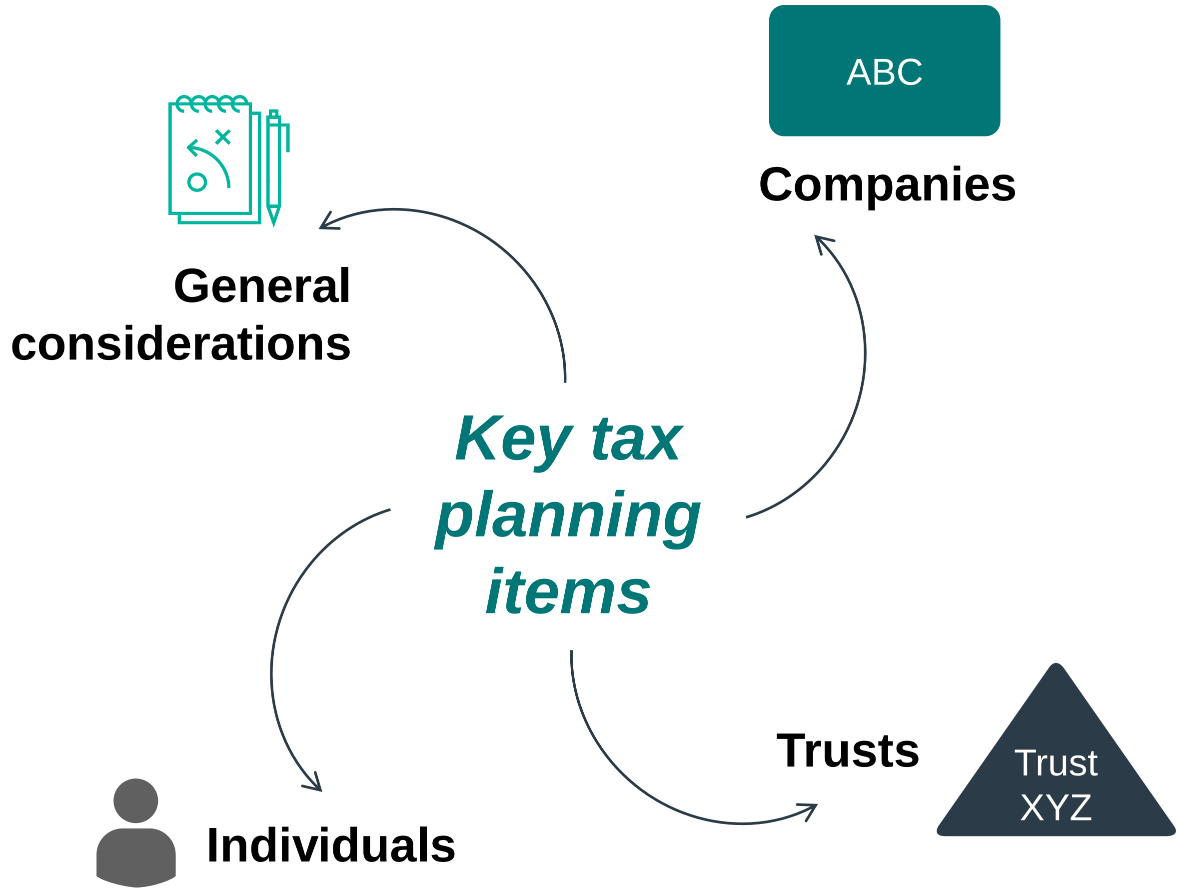

ABC
Companies
General considerations
Key tax planning items
Trusts
Trust XYZ
Individuals

General considerations

Complete review of standard year end items

- Timing of income & deductions
- Review large transactions
- Prepaying expenses
- Bad debt write-offs
- Trading stock elections
- Bonuses and accruals
- Gifts and donations
- Tax losses

Individuals

Year end tax planning considerations

Individuals

Tax rates and thresholds

Rate	2021-22	2022-23
Nil	\$0 – \$18,200	\$0 – \$18,200
19%	\$18,201 – \$45,000	\$18,201 – \$45,000
32.5%	\$45,001 – \$120,000	\$45,001 – \$120,000
37%	\$120,001 – \$180,000	\$120,001 – \$180,000
45%	\$180,001 and over	\$180,001 and over
Low and middle income tax offset	Up to \$1,500	
Low income tax offset	Up to \$700	Up to \$700

Rates exclude the Medicare Levy

Individuals

Value of franking credits (residents) for 2022

Tax rate	30%	25%
Dividend	116,145	82,398
Gross up	49,777	27,466
Gross income	**165,922**	**109,864**
Marginal tax	46,458	26,173
MCL	3,318	2,197
LITO	–	–
LMITO		(904)
Franking credit	(49,777)	(27,466)
Additional tax	**–**	**–**

Individuals

Other items of interest

Working from home expenses for FY21-22

52 cents per hour
Fixed rate plus depreciation
of equipment, not including furniture

80 cents per hour
Shortcut

Superannuation

Maximising concessional contributions
$27,500 cap

Catchup concessional contributions

Non-concessional contributions cap
$110,000

SG rate increases to 10.5% from 1 July 2022

Individuals

Downsizer contributions

The individual is over 65 (**60 for contributions made on or after 1 July 2022**)

Proceeds from selling their home	Maximum $300,000 – each spouse
Ownership duration	The individual (**or** their spouse) must have owned the home for at least 10 years
CGT main residence exemption	Eligible for a full or part or would be if acquired pre-19 September 1985
Other requirement	Contribution made within 90 days (or such further period as the ATO allows) of the **date of settlement** of the sale

ATO focus areas for individuals

Work related expenses
is greater than industry and occupational average

Non-commercial rental income
from holiday homes

Rental property
deductions

Interest deductions
from private proportion of loans

Data matching
including cryptocurrency transactions and transfers of units and shares

GST registrations
when not carrying on a business

Trusts

Year end tax planning considerations

Trusts

Year end trust distributions and resolutions

1	▶	Consider the trust deed and constitution of corporate trustee	✓
2	▶	Definition of income	✓
3	▶	Nomination of beneficiaries	✓
4	▶	Review family and interposed entity elections	✓
5	▶	Trust streaming requirements for franked dividends and capital gains	✓
6	▶	Evidencing your trust resolutions are made in time	✓
7	▶	Focus on intention and ensure consistent with deed	✓
8	▶	Obtaining TFNs from beneficiaries before the distribution	✓
9	▶	Take care on proposed distributions to loss entities	✓

Section 100A is designed to capture distributions to lower taxed beneficiaries
where the benefit is enjoyed by another person

If section 100A applies → Beneficiary is **not presently entitled** to the relevant part of the income → Section 99A **assessment to the trustee**

Note that an unlimited period of review applies in respect of section 100A

Trusts

PCG 2022/D1 –qualitative risk assessment framework (s.100A)

White

Description

Pre 1 July 2014 arrangements unless

- within Blue or Red Zone and ongoing arrangements;
- tax returns not lodged by 1 July 2017; or
- otherwise under review for that year

Compliance activity

None

Green

Description

Arrangements that resemble one of three scenarios, with no additional features

Compliance activity

Only to confirm categorisation

Blue

Description

Arrangements not within White, Green or Red Zones

Compliance activity

To better understand whether s 100A applies

Red

Description

Arrangements that resemble one of six scenarios

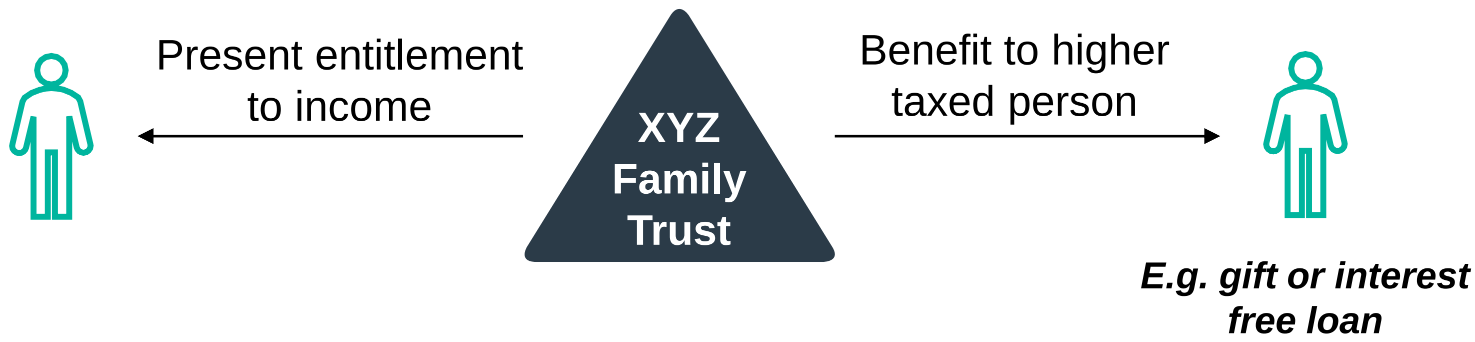
Compliance activity

Will consider applying s 100A as high priority

Pre 1 July 2022 entitlements can rely on ATO “factsheet” where more favourable to taxpayer

Trusts

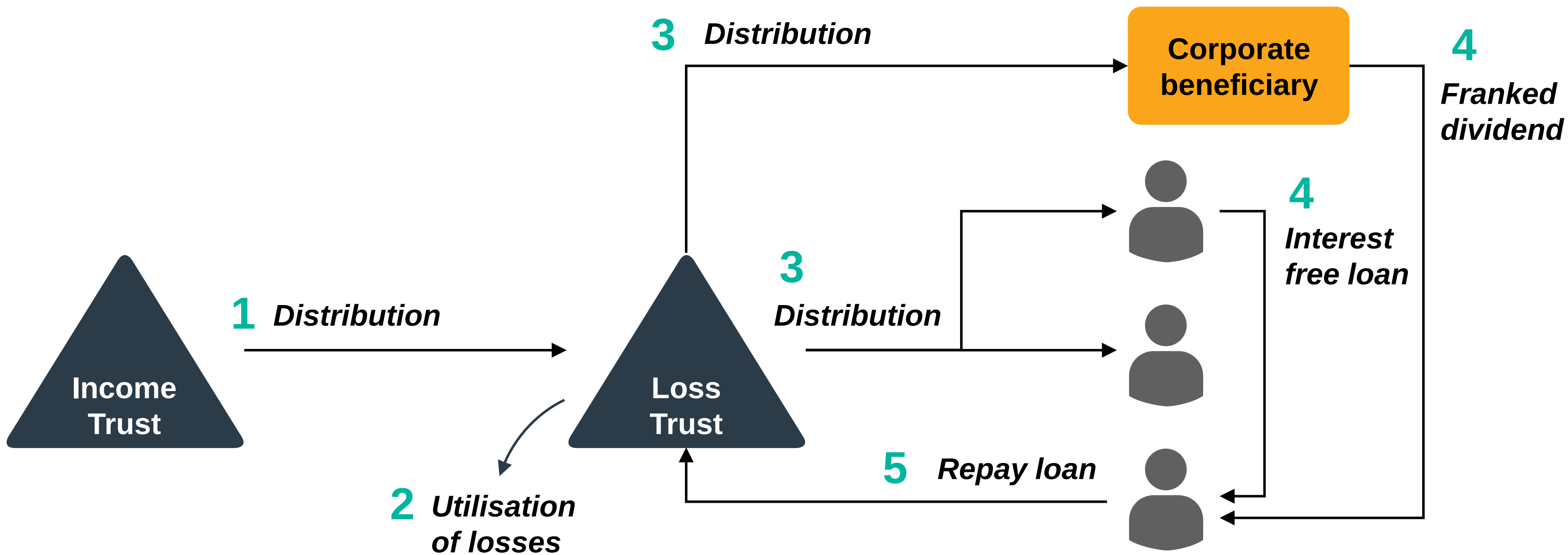
Reimbursement agreement (section 100A)



PCG 2022/D1 This may be a ***Red Zone*** arrangement

Trusts

Reimbursement agreement (section 100A)



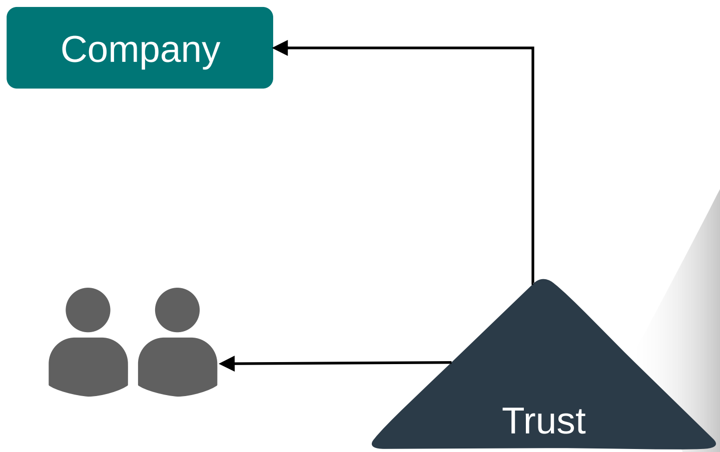
PCG 2022/D1 Each of these steps could result in risk of section 100A

Trusts

Section 100A Green zone – Trustee retention of funds

Must be controlled by controller of trust and UPE on section 109N complying terms

Individual (or spouse) controller



Use of funds

- Working capital
- Investment asset or
- 109N loan even if UPE is not to company

Cannot benefit associate in other ways

e.g. non-commercial use of property

Does not extend to distributions to trusts

Key takeaways
for section 100A

Entitlements paid to beneficiary
and used for own benefit

Dealing with UPEs

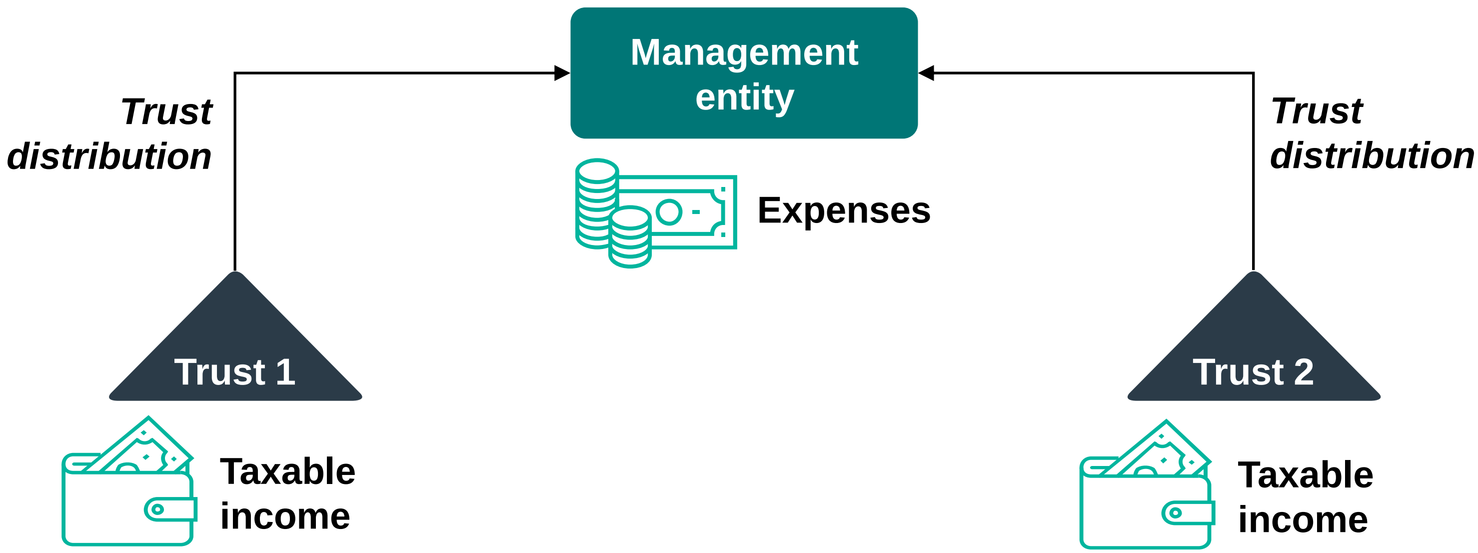
Consider whether retention of funds by trustee in accordance with guidelines

Review historic arrangements
and consider risk classification

Further judicial guidance and ATO consultation pending

Trusts

Discretionary trust distributions and deductions



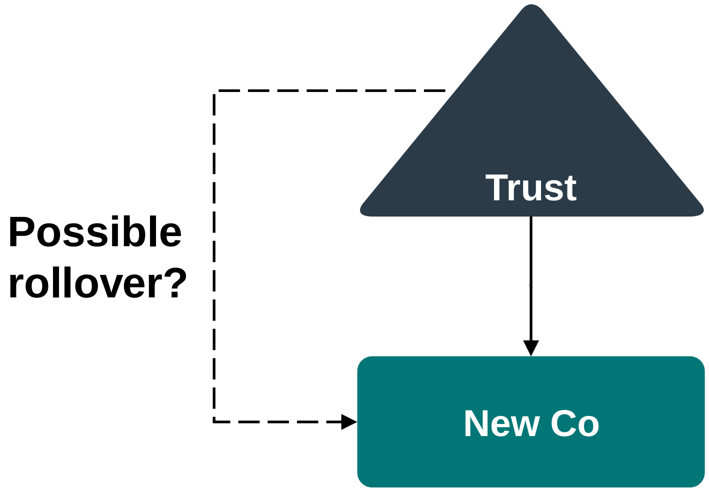
TD 2018/9 **and** ***Chadbourne [2020] AATA 2441***

Trusts

Consider restructuring from a trust to a company for new year

May provide

- Lower tax rate
- Simpler Division 7A
- Reduced risk of section 100A
- CGT concessions on sale of shares



Other considerations		
Stamp duty	**Funding**	**Contractual arrangements**

Companies

Year end tax planning considerations

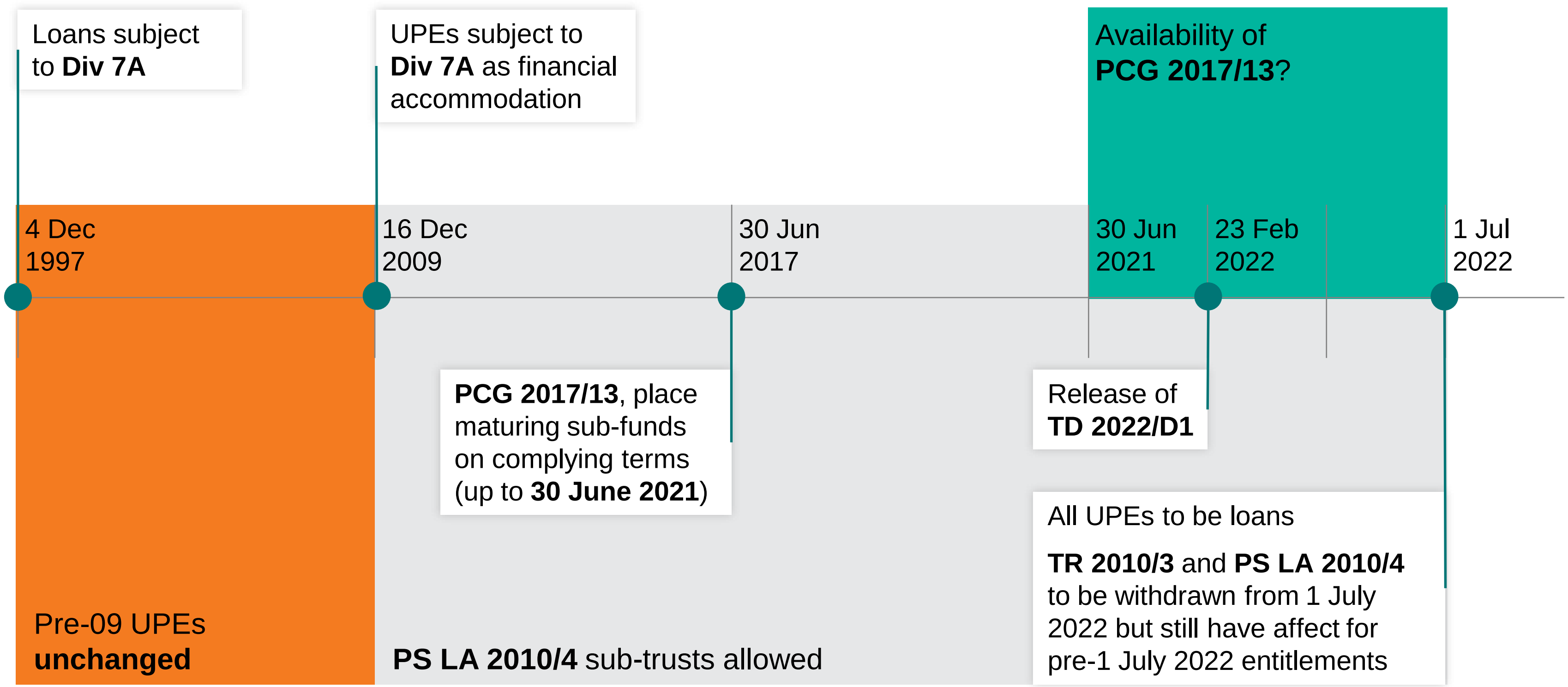
Division 7A

General compliance before year end

1	Benchmark interest rate for 30 June 2022 year repayments – 4.52%	✓
2	Identify all inter company transactions (loans, payments, debt forgiveness)	✓
3	Loan documents are in place	✓
4	Investment agreements are in place	✓
5	Current year and any 2021 catch up minimum yearly repayments paid	✓
6	Franked dividends have been declared	✓
7	Ensure re-borrowings do not occur (even through interposed entities)	✓
8	Ensure transactions through interposed entities considered	✓

Division 7A

Change in treatment of UPEs



Division 7A

PCG 2017/13

- PCG allowed UPE to be put on sub-trust and refinanced with a Division 7A loan on maturity (extended year-on-year since 2017)
- Allows up to 18 years to fully pay distribution to corporate beneficiary
- ATO has verbally indicated will extend practice to sub-trusts maturing in 2021-22

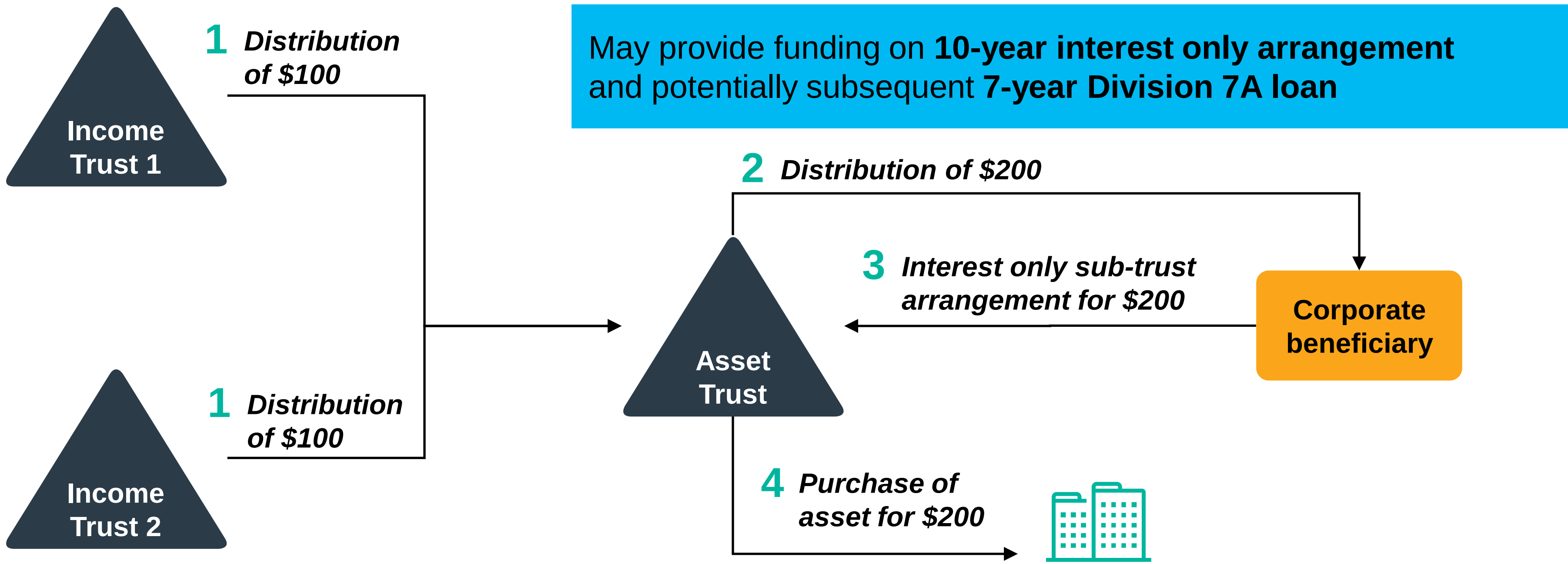
7 / 10 year interest-only arrangements

Interest rates for year ending 30 June 2022

Option 1 (7-year) – 4.52%

Option 2 (10-year) – 6.51%

Division 7A



PCG 2022/D1 Take into account management of section 100A risk

Temporary full expensing

Thresholds – cost at year-end

First used or installed ready for use for a tax purpose by	Small business entity (SBE) < $10m aggregated turnover	Companies and other business entities < $5b aggregated turnover
2021-22	No limit	No limit#
2022-23	No limit	No limit#
1 July 2023 onwards	$1,000	No longer applicable

 # *Watch outs*

Second hand assets excluded where aggregated turnover >$50m

Exclusion where balancing adjustment event occurs – partnership risk

Entities not using simplified depreciation may make an irrevocable choice to opt-out of TFE on an asset-by-asset basis

Companies

Extension of temporary loss carry-back

Loss carry back measures **extended an extra year** to 30 June 2023

Who's eligible?	Corporate tax entities < $5b turnover
Which losses?	2019-20, 2020-21, 2021-22 and 2022-23 income years
Carry back years	Previously taxed profits in 2018-19 or later income years
Other requirements	Limited by franking account balance at end of claim year

Carry back choice can be amended (subject to time limits)

Company tax and franking rates

2021-22 and later years

	Company tax rate	Franking rate
Default rate	30%	30%
Reduced rate	25%	25%
Criteria for reduced rate	Aggregated turnover for **CY < $50M** Passive income for **CY ≤ 80%**	Aggregated turnover for **PY < $50M** Passive income for **PY ≤ 80%**
First year rate		25%

ATO focus areas for companies

Private companies	Private use of business assets, Division 7A
Tax consolidation	Incorrect application of cost-setting rules, membership and loss utilisation
International transactions	Failure to report or incorrect reporting
Lower company tax rate	Artificial arrangements implemented to access
Property developers	Profits inappropriately treated as capital gains

Making business ***personal***

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