

# Family trusts allow the rich to dodge tax, hurting Australia's poor. Not!

Family trusts are used extensively in Australia, much more so than other countries. Why is that? Is it so the Australia's evil rich folk can dodge tax forcing the poor to pay more? We don't believe so. Family trusts are used to solve real financial problems in an efficient way.

They offer several distinct advantages including:

- Providing corporate limited liability by using a company as trustee protecting assets from malicious litigation
- Protecting family assets from children's gold digging partners
- Succession planning to allow business and other assets to seamlessly transfer from one spouse or generation to another
- Providing flow through taxation treatment so the income is taxed in the hands of family members or other related entities
- Providing flexibility in the distribution of income and capital
- Addressing our very high top personal tax rates

These are common financial problems to resolve and different solutions are adopted in countries around the world depending on the specific tax and legal system. Australian's use family trusts, American's use LLCs and "check the box elections", Kiwi's use limited partnerships, Brits use very low and simple corporate taxes and Singaporeans use most of these mechanisms.

We have very high personal taxation and there is a large difference between the top personal tax rate and our company tax rate. Here is a table comparing indicative tax rates for Australia and countries we interact with:

	Australia	UK	New Zealand	USA	Singapore
Top personal tax rate	47%	45%	33%	39.6%	22%
Middle level personal tax rate	39%	20%	30%	25%	11.5%
Lowest level personal tax rate	-	-	-	10%	-
Corporate tax rate	27.5%	20%	28%	36%	17%
Difference - top personal tax and company rate	19.5%	25%	5%	3.6%	5%

Note these are US federal rates and the US tax burden is often significantly higher with the addition of state, county and city taxes. The UK is targeting foreign investors and over recent years has lowered its company tax rate significantly. New Zealand now has a very flat tax system.

Australia and the UK take about 1/2 of the incremental income of high earners. New Zealand and the USA take around a 1/3 of that income and Singapore takes less than 1/4. With high personal taxes, both Australia and the UK have a very large differential between the top personal tax and corporate tax rates giving great incentive for structuring for better tax efficiency.

Further, the top personal tax rate for each of these countries cuts in at significantly varying levels:

Country	Top personal tax rate	Cut in point (AUD)
Australia	47%	\$ 180,000
UK	45%	\$ 247,500
New Zealand	33%	\$ 65,800
USA	39.6%	\$ 522,964
Singapore	22%	\$ 297,600

A trust can certainly distribute business and investment income to adult family members potentially taking advantage of their lower tax rates whilst supporting them, for example, during university education years. This is one of the advantages of having a family trust as your small business vehicle. However, this facet is not particularly significant for very high net worth families where trusts may have very large income. In those cases, income is most likely to be distributed to a special purpose company to take advantage of the large difference between our top personal and company tax rates.

Is the distribution of income by family trusts inequitable?

Here is a table with the average tax rate paid at various income levels. This factors in the tax-free threshold and lower tax rates at low income levels which continues to be of some benefit as incomes grow.

Taxable Income	Average Tax Rate
\$ 10,000	-
\$ 20,000	4%
\$ 30,000	9%
\$ 40,000	13%
\$ 50,000	18%
\$ 60,000	20%
\$ 70,000	22%
\$ 80,000	24%
\$ 90,000	25%
\$ 100,000	27%
\$ 110,000	28%
\$ 120,000	29%
\$ 130,000	29%
\$ 140,000	30%
\$ 150,000	31%
\$ 160,000	31%
\$ 170,000	32%
\$ 180,000	32%

The State Government states that the middle level of total household income for Queenslanders for the 2016 year was \$1392 per week or about \$73,000 per year. They don't provide a breakdown of the makeup of that income but let's assume there is a working couple with one breadwinner bringing in \$50,000 and the other earning \$23,000 each.

So, a Queensland family on the median household income will pay tax at an average rate between 4% and 18%. A low income trust beneficiary receiving the same levels of income would now be taxed at those same rates but the current political proposal is to tax distributions to all adults from non-farm family trusts at a minimum rate of 30%, even though those distributions may be directed to low income earners.

It's a little difficult to see the equity for Australia's small business families in that proposal.

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