



Unpaid present entitlement and sub-trusts

If you have clients that use a corporate trap in conjunction with a discretionary trust and have created 'unpaid present entitlements' (UPEs) then it is essential that the trust complies with the ATO ruling PSLA 2010/4 before 30 June 2011.

By PSLA 2010/4, the ATO has announced that to avoid an unpaid present entitlement (**UPE**) due from a trust to a corporate trap beneficiary for the year ended 30 June 2010 being regarded as a division 7A loan, the trustee must prior to 30 June 2011 decide to place that UPE on a sub-trust for the corporate trap.

The sub-trust must also have an appropriate investment option.

In advising clients affected by this ATO ruling the following issues should be considered:

- Does the trust deed permit sub-trusts?
- Have written minutes of the trustee resolving to place the UPE on a sub-trust been prepared?
- Has an investment option been selected?

Should you have any questions or would like further advice, please contact:

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