

The Accounting & Business Hub Pty Ltd

CERTIFIED PRACTISING ACCOUNTANTS

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27 June 2012



Dr Anecito Mantilla & Mrs Charina Mantilla
J & C MANTILLA FAMILY TRUST
PO Box 736
KOTARA NSW 2289

Dear John & Charina,

Re: Timing of trust resolutions

Please find enclosed the sample documents [i.e., trustee resolutions or minutes of meeting] to record decisions regarding trust distributions for the year ending 30 June 2012.

It is crucial that the trustee(s) of your trust consider and decide how the income of the trust for the 2012 year is to be distributed on or before 30 June. Although this has always been important, some recent changes to tax legislation and ATO administrative practice have 'changed the game'.

In particular, if the trustee wants to ensure that *specific* beneficiaries will receive the benefit of any dividends that have franking (or 'imputation') credits attached, that decision needs to be *put in writing* by 30 June. In the past, a decision of this nature could be made by 30 June but put in writing after that date (e.g. in minutes of a meeting). This will no longer be possible for these types of distributions.

In addition, the ATO used to allow *decisions* about trust distributions generally to be made after 30 June in some circumstances (subject to any specific terms in the trust deed, such as 'default beneficiary' clauses). However, the ATO has stated that it can no longer allow this practice to continue. In addition, they have said that they will be targeting some trusts this year and requiring them to provide their trust distribution resolutions by 7 July 2012. Not all trusts will be subjected to this audit activity, but we recommend that, as a matter of good practice, all our trust clients should consider these issues by 30 June and, ideally, put their trust resolutions or minutes in writing by 30 June every year going forward.

Should there be any further information required, please don't hesitate to contact us.

Yours faithfully,

James Yang

James Yang CPA
The Accounting & Business Hub