

# ATO Launches Crackdown on Family Trusts in Australia as US Expats Face Double Tax Risk

*The ATO is cracking down on family trusts in Australia, US expats may face audits over how income is distributed and used within discretionary trusts.*

AUSTRALIA, May 19, 2025

/EINPresswire.com/ -- The Australian Taxation Office (ATO) is tightening the screws on how family trusts are managed, and US expats living in Australia risk being caught in the crossfire.



Expat US Tax

Australian discretionary trust by Expat US Tax

The ATO is stepping up audits on discretionary trust distributions, focusing on cases where income is passed to adult children or other low-taxed beneficiaries but used elsewhere, a setup the tax office now views with growing suspicion.

"If you've got hundreds of thousands trying to get the cash to pay it to a child.... it may be something that's just uneconomical or can't work," said [Nick Wee](#), Tax director in Australia at Expat US Tax.

## Why This Matters for US Citizens in Australia

US citizens and green card holders are taxed by the IRS on their worldwide income, including earnings from Australian trusts, even if that income never hits their bank account.

With the ATO's latest enforcement push, U.S. expats could find themselves facing:

- IRS scrutiny
- Double taxation
- Form 3520/3520-A penalties (significantly higher for US expats using discretionary trusts).

## What's Changing in Australia?

The ATO now expects trustees to take a much more disciplined approach. That includes:

- Reviewing trust deeds to make sure income is distributed legally
- Avoiding undocumented or informal arrangements (especially for family spending)
- Making written resolutions by June 30, clearly stating who gets what
- Confirming any Family Trust Elections, which can alter tax outcomes
- Avoiding “backdating” or falsifying the timing of decisions, which is illegal

#### What US Expats Should Do Now

- Engage a cross-border tax advisor to coordinate Australian and US compliance
- Review trust documents and family trust elections before 30 June
- Keep detailed, timely records of all distribution decisions
- Make sure trust income is reported in both countries, accurately

Trustees must now maintain detailed documentation justifying distributions. Where arrangements lack a clear commercial rationale, the ATO may disregard them and reassess the trust or beneficiary's tax liabilities.

#### Implications for US Citizens and Green Card Holders

For US expats, the ATO's focus intersects with complex IRS requirements. US tax law treats many [Australian discretionary trusts](#) as Foreign Grantor Trusts, subjecting U.S. citizens to:

- Worldwide income taxation on trust earnings
- Mandatory filings such as Form 3520/3520-A
- Gift and estate tax exposure if the expat funds or controls the trust

The ATO's changes increase the likelihood of double taxation, where the same income is taxed both in Australia and the US. While Foreign Tax Credits (FTCs) offer some relief, mismatches in when income is recognized can still lead to excess tax liabilities.

“When people find out how it’s really gonna work...then they probably think to themselves there’s no point in having this trust anymore” said Clark Stott, from Expat US Tax.

The ATO has made trust enforcement a top compliance priority through 2025. With both Australian and US tax laws at play, US expats must act now to avoid steep penalties, surprise assessments, and long-term tax headaches.

#### About Expat US Tax

Expat US Tax is a global tax firm focused exclusively on helping Americans abroad manage their US tax obligations. With clients in over 150 countries, the firm provides expert, streamlined

support for everything from tax returns to FBARs and foreign trusts. Visit [www.expatustax.com](http://www.expatustax.com) to learn more.

Clark Stott

Expatriate US Tax

Clark@expatustax.com

Visit us on social media:

[LinkedIn](#)

[Facebook](#)

---

This press release can be viewed online at: <https://www.einpresswire.com/article/809562520>

EIN Presswire's priority is source transparency. We do not allow opaque clients, and our editors try to be careful about weeding out false and misleading content. As a user, if you see something we have missed, please do bring it to our attention. Your help is welcome. EIN Presswire, Everyone's Internet News Presswire™, tries to define some of the boundaries that are reasonable in today's world. Please see our Editorial Guidelines for more information.

© 1995-2025 Newsmatics Inc. All Right Reserved.