POLICY BRIEFING SHEET: FAIR TRUST REFORM

Protecting Self-Funded Retirees from Unintended Consequences of Discretionary Trust Taxation

Targeted Audience: Policy makers **Context:** Treasury Consultation Paper (July 2026 Proposal)

CORE RECOMMENDATION: INTRODUCE A $100K–$150K NET INCOME THRESHOLD

Establish a net trust income threshold between $100,000 and $150,000 before applying any proposed minimum trustee tax (e.g., 30%). This simple carve-out safeguards compliant, modest family trusts managed by self-funded retirees while preserving Treasury's revenue integrity goals for large-scale tax avoidance.

1. EXECUTIVE OVERVIEW

The Treasury's proposed reform introduces a 30% flat tax on discretionary trust income. While intended to curb aggressive high-wealth tax minimization, this blunt instrument inadvertently penalizes thousands of Australian self-funded retirees who rely on long-established family trust structures for modest retirement living standards, family succession, and intergenerational support.

30% Tax	$100k-$150k	~$130,000
PROPOSED FLAT TRUSTEE TAX	PROPOSED SAFE THRESHOLD	AVG. RESTRUCTURING DUTY HIT

2. KEY IMPACTS ON RETIRED AUSTRALIANS

1. Erosion of Modest Retiree Income

- **Loss of Tax Thresholds:** Taxing income at 30% at the trust level bypasses the individual $18,200 tax-free threshold and lower personal tax brackets.
- **Loss of Non-Refundable Tax Credits:** Franking credits attached to dividends cannot be fully utilized or refunded to low-rate retiree beneficiaries.

Example Impact:
A retiree receiving $40,000 in trust distributions currently pays ~$3,800 effective tax. Under a flat 30% trustee tax with trapped tax credits, they pay $12,000—a **$8,200 (over 20%) reduction** in net disposable living income.

2. The 'State Stamp Duty Trap'

- Forced restructuring of real property out of trusts to avoid federal penal taxes triggers State transfer duty.
- The estimated ~$130,000 liability represents the average transfer duty across Victoria, NSW, and Queensland on a standard $2.5M asset transfer.
- Creates a severe double-penalty: pay punitive federal taxes or face an immediate state duty hit that destroys capital.

3. POLICY CONTEXT & EXISTING INTEGRITY SAFEGUARDS

Treasury already possesses effective, targeted legislative tools to regulate discretionary trust distributions without imposing broad-brush taxes on compliant retirees:

- **Section 100A (Tax Assessment Act):** Actively targets reimbursement agreements and artificial tax avoidance schemes.
- **PCG 2022/2 (ATO Guidance):** Establishes clear risk zones to address high-risk distribution arrangements.

Rather than applying a blanket penal rate, enforcement should leverage existing integrity frameworks while protecting legitimate family arrangements.

4. ACTION REQUESTED FOR ADVOCACY GROUPS

- **Adopt Threshold Proposal:** Include the $100,000–$150,000 net income threshold in Treasury advocacy submissions.

- **Request Transition Relief:** Advocate for federal-state harmonized relief from stamp duty and CGT roll-over relief for retirees forced to restructure legacy trust holdings.