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Budget 2026: Labor's franking credit-style attack on bucket companies revealed

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The Albanese government will block companies from receiving a version of franking credits to offset tax already paid under the new 30 per cent minimum tax on discretionary trusts.

As part of the government's new rules, which are expected to reap nearly $4.5bn in tax revenue in their first year of collection, the government will exclude corporate beneficiaries from receiving a "non-refund able credit" on distributed income from a trust subject to the new minimum tax.

The new tax is expected to capture about 840,000 discretionary trusts, many of which will have multiple individual and corporate beneficiaries. However, tax experts say the exclusion will make the use of "bucket companies" untenable and amounts to double-taxing.

Despite Jim Chalmers saying the government was not reheating former Labor leader Bill Shorten's franking credits policy, critics said the latest policy looked like the beginning of forging a similar path.

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Treasurer Jim Chalmers has delivered another federal budget, but this time, the tone is dramatically... more

“On your other question we are not proposing in this package to change the treatment of franking credit and including the way that we think about some of the associated issues of refundability,” the Treasurer told the National Press Club.

The budget explainer on the trust tax states: “Corporate beneficiaries will not receive non-refundable credits for tax payable by the trustee, to avoid them converting these to refundable franking credits to avoid the minimum tax.”

K&L Gates tax partner Stuart Broadfoot said the exclusion of companies from receiving the benefit of a non-refundable credit means the use of “bucket companies” will be untenable.

“Distributions to companies from discretionary trusts will effectively be taxed twice. Tax will be paid once by the trustee and then a second time by the company, without the benefit of a credit for the tax already paid by the trustee,” Mr Broadfoot said. “This appears punitive and is designed to eliminate discretionary trusts being used. There are many ways of achieving this, but they chose the approach in double tax.”

The architect of the campaign against Mr Shorten’s 2019 tax package that included the removal of franking credits, Wilson Asset Management’s Geoff Wilson, said it was almost an exact repeat of that 2019 franking credits policy.

“This is the first step in a new attack on franking credits,” Mr Wilson told The Australian

“If they’re non-refundable on trust tax, then they’ll look to make it the same for everything.”

Arnold Bloch Leibler partner Clint Harding said that while uncertainty remained about how the system would operate, under the worst case scenario the effective tax rate of trust income that is distributed to a corporate beneficiary and then issued as a dividend to a shareholder in the top marginal tax bracket could be 62.9 per cent.

“It’s either a very deliberate signal to say don’t use bucket companies or the devil is in the detail and somehow they’re going to iron that out. But if that’s the intended outcome there’s no way anyone would ever distribute money from a trust into a corporate beneficiary,” he said.

"At the very least you're going to pay 51 per cent and then eventually when that goes to the shareholders you're going to be paying up to 62.9 per cent."

Mr Harding also warned that trying to amend the tax act to enact these changes would be a "nightmare".

"You're rewriting trust taxation rules, interaction with franking, with losses, all sorts of things," he said.

"So, I mean, we're all grasping at straws on the basis of three paragraphs in a budget announcement," he added.

In a Robin Hood-style measure, Dr Chalmers is set to use the tax take from trusts to help fund new tax cuts for workers, declaring that the vehicles had been used by the wealthy at the detriment of regular Australians.

"Discretionary trusts allow some Australians, often high-wealth individuals and families, to plan their tax affairs in ways that aren't available to most people," Dr Chalmers said on Tuesday.

The government is expected to provide some rollover relief for three years from mid-2027 for those looking to restructure out of discretionary trusts.