

Re: References – Tax Panel - Australia

Section 99B

1. *Union-Fidelity Trustee Co of Australia Ltd v Commissioner of Taxation* (1969) 119 CLR 177; (1969) 1 ATR 200; (1969) 43 ALJR 313; [1969] HCA 36
2. Section 99B of the *Income Tax Assessment Act 1936*
3. *Traknew Holdings Pty Ltd v Commissioner of Taxation* (1991) ATR 1478, from 1491; 1991 ATC 4272, from 4283; [1991] FCA 129, from [56]
4. TD 2017/23 – “Income tax: does the residency assumption in subsection 95(1) of the Income Tax Assessment Act 1936 (ITAA 1936) apply for the purpose of section 855-10 of the Income Tax Assessment Act 1997 (ITAA 1997), which disregards certain capital gains of a trust which is a foreign trust for CGT purposes?”
5. TD 2017/24 – “Income tax: where an amount included in a beneficiary's assessable income under subsection 99B(1) of the Income Tax Assessment Act 1936 (ITAA 1936) had its origins in a capital gain from non-taxable Australian property of a foreign trust, can the beneficiary offset capital losses or a carry-forward net capital loss ('capital loss offset') or access the CGT discount in relation to the amount?”
6. TA 2021/2 – “Disguising undeclared foreign income as gifts or loans from related overseas entities”
7. TD 2024/9 – “Income tax: factors taken into account in applying paragraphs 99B(2)(a) and (b) of the Income Tax Assessment Act 1936”
8. PCG 2024/3 – “Section 99B of the Income Tax Assessment Act 1936 - ATO compliance approach”
9. PBR references – 1012634929101; 1051344623659; 1012165703362; 1051504138997; 1051974789666; etc
10. Michael Butler, “Practical application and implications of Section 99B”, South Australian Tax Forum 11 April 2024
11. Fiona Dillon, Michael Flynn & Kaitilin Lowdon, “Decoding section 99B Panel Perspective” (slide presentation) Victorian Tax Forum, 21 March 2024

Temporary residents

12. ATO ID 2009/88 – Temporary residents – temporary resident acting in a trustee capacity
13. TD 2012/18 – “Income tax: does a New Zealand citizen who was present in Australia as the holder of a temporary visa granted under section 32 of the Migration Act 1958 (a Special Category Visa) that ceased to be in effect when they departed Australia, still hold a temporary visa for the purposes of paragraph (a) in the 'temporary resident' definition in subsection 995-1(1) of the Income Tax Assessment Act 1997?”

More generally

14. David Hughes and Paige Edwards, “Foreign beneficiaries in the estate plan” (2025) 28(3) *The Tax Specialist* 119-127