



Australian Government

Department of Veterans' Affairs

Application for special concession Primary producer — private trusts

Each form can be used jointly for all Centrelink customers, Veterans' Affairs income support pensioners, and their partners, who are involved in the trust. However, for privacy, you may choose to complete your own form.

New rules

From 1 January 2002 there will be new rules for the way private trusts and private companies are treated under the **income and asset tests**.

If a person is **involved** in a private trust or private company, the income and assets of the trust or company may be taken into account when working out their income support payments or concessions.

Definition of primary production

Primary producer means a person whose principal occupation is primary production.

Primary production means:

- production resulting directly from the cultivation of land; or
- the maintenance of animals or poultry for the purpose of selling them or their bodily produce, including natural increase; or
- fishing operations; or
- forest operations;

and includes the manufacture of dairy produce by the person who produced the raw material used in that manufacture.

Private trusts

Private trusts include family trusts, testamentary trusts and those fixed trusts with fewer than 50 members.

Attribution

The assets and income of private trusts and private companies may be attributed to a person based on:

- a **Control Test** — control includes control via an associate; and
- a **Source Test** — where a person transferred assets or services to a trust or company after 7.30pm Australian Eastern Standard Time (AEST) on 9 May 2000.

If a person is attributed with the assets and income of the trust or company, those assets and income will be assessed as if they were the person's personal assets and income.

Special concession

There is a special concession for primary producers who are involved in private trusts and meet certain conditions. This concession will allow some primary producers to retain limited appointorship powers without the assets and income of the private trust being attributed to them.

The conditions are:

Family member running the farm

As this concession is aimed at primary producers wishing to retire and hand control on to the next generation, the concession is limited to circumstances where a family member is operating, or takes over the operation of, the primary production enterprise. This will allow the older generation to retire without the need for the farm to support several generations.

Income and asset limits

The special concession is limited to primary producers who, together with their partners (where applicable):

- own or control net primary production assets, the current market value of which is less than \$793,500 (indexed from 1 July 2001); and
- have average net primary production income for the three financial years immediately prior to forgoing control of less than \$29,857 (indexed from 1 July 2001).

Primary production assets include primary production land as well as all other primary production assets such as plant, machinery and livestock.

The value of the primary production enterprise is based on current market values. We may ask the Australian Valuation Office (AVO) to value the primary production assets at no cost to the farmer or the trust.

The net value of the primary production enterprise is determined by deducting the allowable primary production liabilities from the current market value of the primary production assets (less the net value of the principal home of the farmer if that principal home is on primary production land).

70% rule

More than 70% of the net value of the assets of the trust (excluding the net value of the principal home of the farmer if that principal home is owned by the trust) must relate to assets used wholly or principally for the purposes of carrying on a primary production enterprise.

Limited appointorship

The powers that the appointor can exercise must be limited.

This means that an irrevocable clause must be inserted into the trust deed providing that:

- the appointor's power to appoint a new trustee can only be exercised upon the trustee's death, resignation or legal disablement.
- any power of veto held by the appointor is limited to the power to veto the sale of the primary production land.

The appointor must also make a statutory declaration of their resignation from the trust, stating they will not exert any control over, or benefit in any way from the trust, beyond the limited benefits allowed.

Neither they nor their partner can:

- be the trustee, or be able to be appointed as trustee.
- have the power to change the trust deed.
- be *capital or income beneficiaries of the trust.

(*A capital beneficiary or income beneficiary is a person who is able to receive either capital or income at any time from the trust).

Loans from appointors

Appointors who have large loans outstanding to the trust may be assessed as still having control over the trust. If you have a large loan to the trust you should seek advice from DVA Trusts and Companies Review team as to the affect on your eligibility.

Limited benefits

Life interest in home

The appointor and their partner can retain a life interest in their home if it is situated on the primary production property.

Incidental fringe benefits

The appointor and their partner can receive some incidental fringe benefits such as food, water, fuel, gas or electricity for personal consumption.

Receiving income from the farm

The appointor and their partner may continue to draw a combined income from the trust/s to a maximum of \$29,857pa (indexed from 1 July 2001) during the 5 years after transfer to a limited appointorship if they are affected by the gifting rules.

If there are several primary production trusts, the income of \$29,857pa (indexed from 1 July 2001) is a maximum combined income from all the trusts.

If the gifting rules do not apply to a person, all income from the trust must cease for the concession to apply.

Gifting rules

Providing you (and your partner) are already involved in a primary production discretionary trust, if you enter a 'limited' appointorship arrangement **before** 1 January 2002 it may not affect your entitlements under the gifting rules.

Any 'limited' appointorship arrangement entered into **after** 1 January 2002 may result in a gift being assessed under the usual veterans' entitlements rules.

This could mean the net value of the trust being assessed as the appointor's and their partner's asset for 5 years from the date the appointorship changed, and perhaps preventing any entitlement to income support payments and/or concessions.

It is important that the appointor seek professional advice before making any changes.

Attribution to a new controller

Usually the family member who takes over the operation of the primary production enterprise would be appointed as the trustee of the trust.

The new controller will have the income and assets of the trust taken into account should they or their partner be receiving an income support payment. This is because, as controller, the income and assets of the trust would be attributed to them.

What you need to do

If you (and your partner) are involved in more than one trust or company you should complete a separate Private Trust form and Private Company form for each trust or company. You only need to complete one Special Concession form to claim the concession.

You can ask for more forms by:

- phoning the private trust & private companies review team on 1800 550 462, or
- e-mailing trust&company.review@dva.gov.au

You can also download forms from www.dva.gov.au/clientforms/default.htm or your tax agent or accountant may use electronic forms so you may want to check with them before asking for more forms.

For more information

For more information please call 1800 550 462

This call is free from anywhere in Australia unless from a mobile phone. Calls from mobile phones are charged at mobile rates.

Veterans' Affairs Financial Information Service (VAFIS)

VAFIS provides a free service to help improve the standard of living of pensioners by using their own money to best advantage. You may like to contact a VAFIS officer for more information about your options and possible entitlements by contacting your nearest DVA office.

Centrelink also offer a Financial Information Service in many locations around Australia. This service is also available to the veteran community. To arrange an appointment phone the Centrelink Call Centre on 13 10 21.

Important note

While all care is taken in the preparation of information and material in this publication, no responsibility can be taken for any change in the personal circumstances of any person acting on information presented here. You are advised to contact your Department of Veterans' Affairs Office for full details of any entitlements and services for which you may be eligible, or for how any pending changes in legislation, programs or services may affect you.

Privacy notice

Your personal information is protected by law, including the *Privacy Act 1988*. Your personal information may be collected by the Department of Veterans' Affairs (DVA) for the delivery of government programs for war veterans, members of the Australian Defence Force, members of the Australian Federal Police and their dependants.

[Read more: How DVA manages personal information](#)



Application for special concession Primary producer — private trusts

Please write in BLOCK LETTERS using a blue or black pen (not pencil).

1 Your personal details	Your name	<input type="text"/>
	Your date of birth	<input type="text" value="/"/> <input type="text" value="/"/>
	DVA Reference Number	<input type="text" value=""/>
	Address	<input type="text"/> <input type="text" value="Postcode"/>
	Daytime telephone number	(<input type="text"/>) <input type="text"/>
Your partner's details (if applicable) (Your partner is your wife, husband or de facto)	Your partner's name	<input type="text"/>
	Your partner's date of birth	<input type="text" value="/"/> <input type="text" value="/"/>
	DVA Reference Number	<input type="text" value=""/>
2 What is the name of the private trust you are claiming the primary producer concession for?	<input type="text"/>	
3 Tax File Number (TFN) of the trust (if applicable)	<input type="text" value=""/>	
4 Australian Business Number (ABN) of the trust (if applicable)	<input type="text" value=""/>	
5 Trust Centrelink Reference Number (trust CRN) (if known)	<input type="text" value=""/>	
6 Who is the trustee of the trust?	Name	<input type="text"/>
	Address	<input type="text"/> <input type="text" value="Postcode"/>
	Date of birth	<input type="text" value="/"/> <input type="text" value="/"/>
	Their relationship to you	<input type="text"/>
7 Who is the appointor (or guardian) of the trust?	Name	<input type="text"/>
	Address	<input type="text"/> <input type="text" value="Postcode"/>
	Date of birth	<input type="text" value="/"/> <input type="text" value="/"/>
	Their relationship to you	<input type="text"/>
	8 Who is operating the primary production enterprise?	Name
Address		<input type="text"/> <input type="text" value="Postcode"/>
Date of birth		<input type="text" value="/"/> <input type="text" value="/"/>
Their relationship to you		<input type="text"/>

9 Are you, or your partner, beneficiaries of the trust? Income beneficiaries No Yes
 Capital beneficiaries No Yes
 Both No Yes

10 Has a Private Trust form been completed for the trust? No
 Yes ► Go to **Question 12**

11 Will a Private Trust form be submitted with this form? No ► You must complete a Private Trust form. See page 3 — What you need
 Yes to do for information about forms

12 When did the appointorship change to 'limited'?
 See definition of limited on page 2.

	Financial years	Primary production income
1	<input type="text" value="/"/>	\$ <input type="text"/>
2	<input type="text" value="/"/>	\$ <input type="text"/>
3	<input type="text" value="/"/>	\$ <input type="text"/>

	Financial years	Primary production income
1	<input type="text" value="/"/>	\$ <input type="text"/>
2	<input type="text" value="/"/>	\$ <input type="text"/>
3	<input type="text" value="/"/>	\$ <input type="text"/>

15 Does your primary production enterprise include a (business) partnership? No ► Go to **Question 17**
 Yes ► What is the name of the (business) partnership?

16 Do you or your partner own other primary production assets that are not part of this trust? No
 Yes ► Please give details of the assets and an estimate of the value.

Type of asset	Your estimate of the current market value*
Plant and Equipment	\$ <input type="text"/>
Machinery	\$ <input type="text"/>
Vehicles	\$ <input type="text"/>
Livestock	\$ <input type="text"/>
Stock	\$ <input type="text"/>
Licences	\$ <input type="text"/>
Other (describe)	
<input type="text"/>	\$ <input type="text"/>
<input type="text"/>	\$ <input type="text"/>
<input type="text"/>	\$ <input type="text"/>

*The current market value is the price a willing but not anxious purchaser is prepared to pay a willing but not anxious seller for an item.

17 Please attach COPIES of the following documents

The copies will not be returned.

- Your personal income tax returns for each financial year in Question 13
- Your partner's personal income tax returns for each financial year in Question 14
- The latest trust income tax return
- Trust trading account
- Trust profit and loss statement
- Trust depreciation schedule
- Trust balance sheet
- Initial trust deed
- Amendment to trust deed showing 'limited' appointment (this must be signed, dated and stamped to be valid)

If applicable:

- Partnership income tax return
- Partnership trading account details
- Partnership profit and loss statement
- Partnership depreciation schedule
- Partnership balance sheet

18 Please attach the ORIGINAL:

The original document will be returned to you after being copied.

- Statutory declaration (or a certified copy of the original) or legal document of your resignation from the trust which states you will not exert any control over, or benefit in any way, from the trust.

19 Please read and sign this statement

I/we declare that:

- the information I/we have given on this form is correct; and
- the documents provided are a genuine copy.

I/we understand that:

- There are penalties for deliberately giving false or misleading information.
- Centrelink/Department of Veterans' Affairs may make any enquiries necessary to help work out a person's entitlements.
- The information asked for in this form is needed to decide a person's entitlements from Centrelink/Department of Veterans' Affairs.

Your signature

Date

Your partner's signature

Date

Daytime telephone number

**Return forms to:
Department of Veterans' Affairs
GPO Box 9998
Brisbane QLD 4001**

If this form was completed by a **business** with fewer than 20 employees, please provide an **estimate** of the time taken to complete this form.

Include:

- the time actually spent reading the instructions, working on the questions and obtaining the information
- the time spent by all employees in collecting and providing this information.

Hours Minutes