Acis.

Practical Solutions for Company Curveballs

29 October 2026



Today's Speaker



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Agenda

- **Update:** 30% Minimum Tax on Discretionary Trusts
- **Administrative Company Issues & Considerations**
  - Missing Company Records
  - Company Register vs ASIC Records
- **Transactional Company Issues & Considerations**
  - Share transfers: voluntary, death, incapacity
  - Successor Directors
- **Regulatory Change**
  - Director IDs
  - Addresses for Service
- **Q&A**



Update:

30% Minimum Tax on Discretionary Trusts



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Default regime: a 30% floor from July 2028

- **Trustee pays:** trustees of a minimum tax trust are assessed directly at a minimum 30% on trust income
- **Franking:** excess franking credits can be refunded once the trustee's primary liability is met
- **Beneficiaries:** non-corporate beneficiaries get a non-refundable 30% offset; companies do not
- **Excluded trusts:** fixed, special disability and testamentary trusts, and complying super funds, if set up before 1 July 2028
- **Excluded income:** primary production, vulnerable minors, withholding tax, and distributions to charities or DGRs



Two ways out of the default regime

1 Restructure

3-year window from 1 July 2027

- Move into a fixed entity with CGT and income tax rollover relief
- Federal rollovers don't cover stamp duty, so check state duty costs

2 Elect: Excluded Election Trust

For trusts in existence on 1 July 2028

- Nominate fixed percentage entitlements to named beneficiaries, with no deed change
- Individuals, companies and trusts can be nominated, with no cap on numbers

The election comes with strings attached

- **Bucket companies survive:** a company beneficiary of an EET is taxed at its own rate only, not on top of 30% at trust level
- **Asset protection weakens:** fixed entitlements reduce trustee discretion and can expose trust assets
- **Auto-revocation risk:** one inconsistent distribution revokes the election, with top marginal rate plus Medicare levy that year and the 30% floor afterwards
- **Effectively permanent:** nominations change only on a beneficiary's death or a family breakdown



Who is affected?

95%+

of individual tax-filers unaffected in any given year

90%+

of Australia's 2.7m active small businesses unaffected

~140,000

trust-run small businesses (40% of ~350,000) expected to pay no extra tax or restructure

So the remaining ~60% of trust-run small businesses, around 210,000 entities, are the ones that need modelling now.

14 October: two bills introduced

THE MAIN BILL

Treasury Laws Amendment (Tax Reform No. 3) Bill 2026

- Contains the minimum tax rules, the EET election and rollover relief
- Adds a new definition of “fixed trust”
- Also carries CGT, negative gearing and Payday Super changes

THE COMPANION BILL

Income Tax Rates Amendment (Minimum Tax on Discretionary Trusts) Bill 2026

- Sets the 30% rate the trustee pays
- Must pass alongside the main bill

Introduced by the Treasurer | ~$4.3bn over the forward estimates | Not yet passed

What the bills confirm, and what's new

Confirmed from the draft

30% from 1 July 2028: paid by the trustee, with a non-refundable offset for non-corporate beneficiaries

Rollover window: 1 July 2027 to 30 June 2030, into a company or fixed trust; state duty still applies

EET election: fixed shares to nominated beneficiaries switch the minimum tax off

New or clarified in the bills

Commissioner's discretion: can keep EET status where automatic revocation would be unreasonable

EET timing: elect by the end of the first income year starting on or after 1 July 2028

One or the other: a trust can't use both the EET election and rollover relief

Testamentary trusts: income from unrelated assets added after 12 May 2026 can be caught

Still to come: 12 rules are left to ministerial instruments that haven't been released (CPA Australia).

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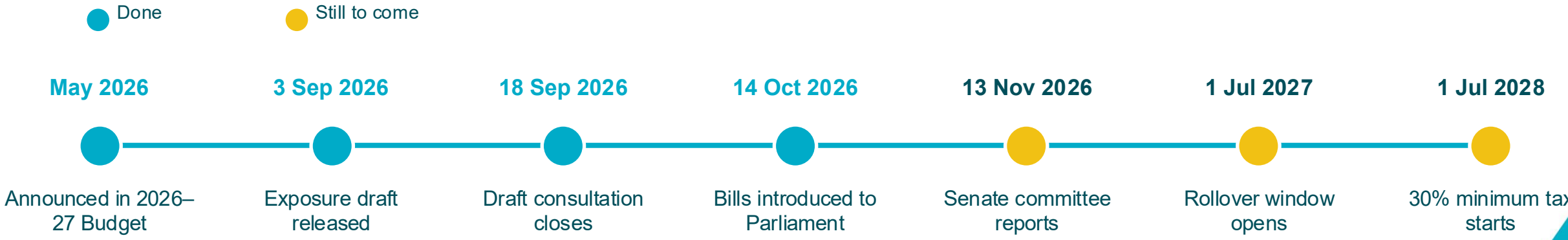
When will the legislation be finalised?



No fixed date yet. The bills are before Parliament. The Senate Economics Legislation Committee takes submissions until 29 October and reports by 13 November 2026. The Opposition doesn't support the bills, so passage depends on the Greens in the Senate, and amendments are possible.

To watch: the committee report, then the Senate vote. Enactment must come before the rollover window opens on 1 July 2027.

What advisers should do now



- **Identify** clients with discretionary trusts likely to fall in scope
- **Model three outcomes:** the default 30% trustee tax, restructuring (including duty), and the fixed-distribution election
- **Tighten governance** around distribution resolutions if an election is likely
- **Hold off on irreversible steps** until the Senate outcome is known; rollover relief starts 1 July 2027
- **Monitor** the 13 November committee report and any amendments

Administrative Company Issues & Considerations



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Administrative Company Issues & Considerations

Missing Company Records

- Missing certificate of registration
  - Issued by ASIC upon incorporation – if lost, company is hamstrung as it serves as proof of incorporation, recognition as a legal entity, third parties may not deal with company without certificate of registration
  - If lost, purchase from ASIC direct for $24
- Missing share certificates
  - Constitution will outline procedure/costs to re-issue and confirm shareholdings
  - Acis Constitution keeps it simple, re-issue in form the directors determine while other constitutions may impose costs to re-issue
- Direct-to-ASIC incorporation
  - Increase in self-incorporation, various reasons including reducing costs and/or AML but results in significant issues as ASIC **only provide the certificate of registration**
  - Corporations Act imposes requirement to maintain register of members (s168) – breach if not – storing register electronically OK **(s1306)**
  - Risk of **consents to act** (s201D), **application for shares** not being executed prior to company incorporation, immediate breach
  - Third parties (e.g. banks, investors) will not do business without proof of shareholdings via share certificates
  - No constitution, so the company defaults to the replaceable rules without anyone having decided that deliberately

Administrative Company Issues & Considerations

Missing Company Records - Solution

- Company Reconstruction Pack
  - Acis can assist with preparing a company reconstruction pack
  - Certificate of Registration, Constitution, Register of Members, Share Certificates
  - Consents to Act & Applications for Shares – these need to have been retained from when the company was incorporated
- Advantage of going through the adviser and Acis
  - The adviser stays in control of the structure conversation, so the entity fits the client's tax, asset protection and succession plan from day one
  - Acis produces a complete, consistent document set at incorporation: constitution (if required), resolutions, registers, share certificates and director consents
  - Records match what is lodged with ASIC, so there are no discrepancies between the public register and the internal record
  - Holding the records from the start means later restructures and administrative changes (share transfers, director changes, constitution amendments) can be prepared efficiently
  - Protects the adviser from inheriting poorly documented entities, with less time and money spent reconstructing history

Administrative Company Issues & Considerations

Company Register vs ASIC Records

- **Incomplete or inaccurate names**
  - Middle names/change of name – Form 492 or Form 484
- **Paid up/unpaid amounts**
  - Incorrect, inflated amounts – has the amount been paid into the company bank account?
  - Unpaid amount = potential for share forfeiture
  - Form 492: time consuming process at critical point in time
- **Beneficially held (Yes/No)**
  - Wrong specification as to beneficial ownership critical
  - Form 492: timing up to 28 days, need evidence to support
- **Unreported changes in share holdings/structure**
  - Form 484: Share transfer from date of share acquisition by current hold, large late fees

Transactional Company Issues & Considerations



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Transactional Company Issues & Considerations

- **Difficult shareholders**
  - **Check first:** constitution, shareholders' agreement and the share register
  - **Missing holder:** document search efforts, check for death or incapacity
  - **Refusing holder:** valuation, negotiation and mediation, then drag-along or call options
  - **Court options:** oppression (s233), just and equitable winding up (s461), rectification (s175)
  - **Avoid:** diluting the holder, which risks oppression and improper purpose claims

Transactional Company Issues & Considerations

Voluntary transfers.

- **Restrictions first:** pre-emption rights, director approval, shareholders' agreement
- **Instrument:** signed transfer delivered to the company (s1071B)
- **Membership:** buyer is a member only once entered in the register (ss168–169)
- **ASIC:** notify membership changes within 28 days (ss1070A–1070B)
- **Adviser checks:** price basis, CGT, duty, Division 7A, guarantees

Transactional Company Issues & Considerations

Death and incapacity.



- **Death:** shares pass to the legal personal representative; generally, nobody can sign until probate
- **Sole director and shareholder:** the company can be frozen – s201F; Personal Representative can step in to facilitate transfer of shares, appointment of director
- **Incapacity:** needs an enduring power of attorney or appointed guardian

The Acis constitution.

- **Pre-emption (r 20):** Sale Notice, 14 days for members to accept, then sale to a director-approved buyer on the same terms
- **Director approval (r 21):** Schedule 1 form, signed by both parties, approved by directors
- **Death, bankruptcy, incapacity (rr 17–19):** representative can be registered or transfer, subject to r 20
- **Also:** non-complying transfers are void (r 20.12); related body corporate exception (r 20.11)

Transactional Company Issues & Considerations

Key takeaways.

- **Fill the gaps:** a shareholders' agreement for valuation, drag-along and compulsory transfer
- **Ask at structuring:** who gets the shares, and how is the price set?
- **Engage early:** raise incorporation with Acis before clients go direct to ASIC

Transactional Company Issues & Considerations

Successor Directors



Alternate vs Successor Directors

- **Alternate (temporary):** covers a director's absence, such as travel or illness
- **Alternate (appointed):** by the absent director, with all other directors' approval
- **Successor (permanent):** nominated in advance to replace a director who dies or is Legally Disabled
- **Successor (ready):** nominee signs a consent to act upfront for a quick handover
- **Legal Disability:** lack of legal capacity through intellectual disability or mental illness, with affairs administered by another person



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Key differences.

- **Duration:** alternate is temporary; successor is permanent and replaces the nominator
- **Status:** alternate inherits powers for a period; successor holds full director powers once triggered
- **Appointment:** alternate is appointed by the absent director; successor by the company under an earlier nomination
- **Ends:** alternate when the appointor returns or ceases; successor on resignation, removal or end of the Legal Disability

Successors in practice.

- **Sole-director owner:** dies suddenly; the nominee steps in and the business keeps trading while probate is sorted
- **Couple as directors:** one loses capacity; a nominated adult child means the other is not left to act alone
- **Family farm or practice:** parents nominate the child taking over, aligning director succession with the estate plan
- **Trustee company:** the trust keeps a director able to sign and act (check the trust deed and SMSF rules)

When it may not fit.



- **More than one family:** one nominee may not suit everyone
- **Several capacities:** for example a company acting as trustee of multiple trusts
- **Unsuitable or contested nominee:** consider other mechanisms
- **Adviser and client decide;** Acis does not provide advice

Transactional Company Issues & Considerations

Key takeaways.

- **Alternate** directors cover absence; successor directors cover death and incapacity
- **Ask every sole-director and family-company client:** who acts if you can't?
- **Check the structure first:** one family, one capacity, or several?
- **Nominate and consent in advance,** then ask Acis to add the provisions

Regulatory Change: Director IDs



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What is a director ID?

- **Unique ID** for each director, verified and administered by ABRS (part of the ATO)
- **Already required:** the regime has applied since November 2021
- **The gap today:** director IDs are not linked to ASIC's companies register
- **ASIC's role:** registers companies, records director IDs and enforces



What changes on 1 July 2027.

- **Companies must provide director IDs to ASIC** under the *Treasury Laws Amendment (Business Registries Stabilisation and Uplift) Act* 2026
- **When:** registering a company, appointing or ceasing a director, changing director details, and annual reviews
- **Visible:** ASIC will be able to publish director ID information on its registers

New and existing companies.

- **New incorporations:** each director's ID is required in the application, and ASIC may refuse registration without it
- **Existing companies:** lodge current directors' IDs by the earlier of 2 weeks after the next review date or 28 days after the next change in the director's details
- **Penalties:** strict liability offences, up to 120 penalty units for a company
- **Directors:** ASIC can disqualify for up to 3 years if they fail to apply when directed

How Acis will help.



- **Acis will begin collecting director IDs** before 1 July 2027
- **Purpose:** streamline the transition for new and existing companies
- **Goal:** IDs on file when the new laws start, avoiding delays on incorporations and director changes

Getting ready: Five things advisers can do now

- **Check every director,** including alternates, has a director ID; apply via ABRS if not
- **Match records:** ask clients to compare ABRS and ASIC details and update errors
- **Update checklists:** add the director ID to onboarding and consent-to-act forms
- **Diary review dates:** each company's next review date starts the transition clock
- **Send IDs to Acis early** and watch for ASIC guidance before 1 July 2027

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Regulatory Change: Address for Service



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Why the register is changing

- **February 2026:** ASIC removed officeholders' residential addresses and day of birth from company extracts it sells online, as an interim privacy measure.
- **July 2026:** The B*usiness Registries Stabilisation and Uplift Act 2026* was enacted, creating new fields for director ID, service address and electronic address.
- **The driver:** Privacy, safety, identity theft and impersonation scam risks from publicly searchable home addresses.
- **The trade-off:** Keep the register transparent for business, while restricting sensitive personal data to verified users.

Three new items on the register

- **Service address:** an alternative Australian address shown instead of a home address, such as a law firm, accountant or registered office.
- **Director ID:** linked to the register and reported with annual reviews and changes.
- **Electronic address:** an email for the company and each director and secretary.



Key dates

When	What happens
Early 2027	ASIC announces its final position on register access; draft legislative instrument expected around March
1 July 2027	Lodgement of director ID, service address and electronic address opens; new registry services start
July 2027 to July 2028	Transition period: update service addresses so residential addresses stay restricted
1 August 2028	New access settings fully implemented (proposed)

Who would see what (proposed)

- **All registry users:** officeholder name and status, director ID, service address, year of birth and residential locality.
- **Restricted business users:** residential address and full birth details, for example legal practitioners and registered liquidators.
- **Government agencies:** access continues essentially as it is today.
- **Status:** ASIC Consultation Paper 391 closed on 12 October 2026. Final settings are not yet confirmed.

What to do now

- Choose a service address for each officeholder and confirm the third party will receive documents
- Confirm every director has a Director ID and that details match across systems
- Collect an email address for the company and for each director and secretary
- Plan to lodge from 1 July 2027, well ahead of 1 August 2028
- Watch for ASIC’s final position and take advice on your circumstances

Questions?





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