

NEW TAX SYSTEM FOR MANAGED INVESTMENT TRUSTS

The Government has today announced that a new dedicated tax system for Managed Investment Trusts ("MITs") will be introduced.

According to the Government, the key features of the new MIT tax system will be:

1. The provision of an elective "attribution" system of taxation to replace the current rules which require beneficiaries to have present entitlements to income. This new attribution system will provide that investors will be taxed only on the income that the trustee allocates to them on a fair and reasonable basis, consistent with their entitlements under the trust deed or the trust's constituent documents;
2. An ability to deal with "over or under" distributions within a five per cent cap so that trusts are not required to reissue statements and investors are not required to revisit tax returns;
3. Removing double taxation; and
4. Abolishing Division 6B of the 1936 Tax Act (which relates to corporate unit trusts).

Commencement date

The new MIT arrangements will commence on 1 July 2011.

Background

In establishing the new MIT tax system, the Government is responding to a Board of Taxation review of the taxation arrangements that apply to MITs. The Government has decided to accept 38 of the Board's 48 recommendations.

The Government will undertake further sector and community consultation on the details and supporting legislation for the new tax system for MITs in coming months.

The Government has decided to defer consideration of a small number of recommendations of the Board to consult with industry to further assess their benefits, relative to the potential cost to revenue.

The full Board of Taxation report is available at www.taxboard.gov.au.

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Further details

Elective attribution model

There will be an elective "attribution" system of taxation for qualifying MITs (those with clearly defined rights) to replace the current rules which require beneficiaries to have present entitlements to income. Under the current rules beneficiaries may be taxable on amounts that they are not entitled to receive and trustees may be taxed on capital gains that they have already distributed to investors.

The new attribution system will provide that investors will be taxed only on the taxable income that the trustee allocates to them on a fair and reasonable basis, consistent with the investor's entitlements and rights under the trust's constituent documents.

'Under and over' distributions

A 'carry-over facility' will be introduced to allow MITs to deal with "over or under" distributions within a five per cent cap. Where adjustments fall within the five per cent range (that is, they amount to no more than five per cent less or more than the amount outlined in the issued statement), beneficiaries will not have to re-do their tax returns to reflect their revised distribution from the trust.

In addition, the trust will not be required to re-issue investor statements to the beneficiaries.

Removal of double taxation

The Board recommended that the cost base/reduced cost base of a beneficiary's units in a MIT that was subject to the new regime should be adjusted in the following circumstances:

- ❖ where taxable income is attributed to a beneficiary, then the cost base of the beneficiary's units should be increased by the amount attributed (adjusted upwards for certain CGT amounts that are currently disregarded under CGT event E4 - such as the discount component of a capital gain - and downwards to reflect the value of certain tax offsets such as the gross-up component of a franking credit); and
- ❖ where distributions are received, the cost base will be reduced by the amount of the distribution.

The Government agreed to this recommendation in principle, in so far as it relates to addressing the potential double taxation that may arise in certain circumstances. The details will be developed in the context of implementation of the detailed design of the new MIT regime.

FURTHER INFORMATION

Please ask your regular Johnston Rorke tax contact for further details on the issues raised in this Tax Bulletin.

JR Acknowledges the assistance of our national affiliates, Pitcher Partners, with the production of this Tax Bulletin.

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