

RELEASE OF DRAFT LEGISLATION ON TAX TREATMENT OF MANAGED INVESTMENT TRUSTS DISPOSALS

The Assistant Treasurer, Senator Nick Sherry, has today released for public consultation the Rudd Government's draft legislation, together with explanatory material, on the proposed changes to the taxation of gains and losses on disposal of investments by managed investment trusts (MITs).

The changes, which were announced in the 2009-10 Budget, will allow an eligible MIT to irrevocably elect capital account treatment for gains and losses on disposal of certain investments with effect from the 2008-09 income year.

"In 2009, the ABS reported that the Australian funds management industry has over \$1.2 trillion in funds under management and the tax treatment of those funds and the vehicles in which they are held is of the utmost importance," said the Assistant Treasurer.

"This measure will provide greater certainty to the managed funds sector and ensure Australia's tax regime remains competitive in attracting foreign funds."

"This measure builds on the cut to the withholding tax rate for MITs announced in the 2008-09 Budget and the Rudd Government's commitment to sweeping reforms to the notoriously complex attribution rules, including foreign investment fund and foreign controlled company rules."

"This measure also directly compliments the work being led by my Ministerial colleague Chris Bowen through the Australian Financial Centre Forum, to promote Australia as a key financial hub."

In finalising the design details of the draft Bill, the Government has taken into account the relevant content of the final report of the Board of Taxation on MITs and submissions received from a range of stakeholders.

"As a result of consultations, the draft Bill expands the concept of a MIT for the purposes of this measure. These changes will ensure state operated trusts, as well as wholesale trusts, are also able to qualify for the concession."

"Also, the Government has decided to provide further certainty by specifying the assets to be covered by capital account treatment – these are shares, units and certain land investments."

In addition, the Bill confirms:

- if a MIT does not elect capital account treatment, then the gains and losses on disposals of shares and units will be treated on revenue account;
- that distributions or gains on "carried interest" units in a MIT are on revenue account; and
- these changes will have effect from Royal Assent.

"Today's draft legislation delivers on our commitment to move quickly and legislate for deemed capital account treatment for MITs," said the Assistant Treasurer.

"In due course the Government will also release the Board of Taxation's full report into the general regulation of MITs," said the Assistant Treasurer.

"The Government welcomes further public comment on the draft Bill and explanatory materials by Thursday, 24 December, 2009 – this will allow the introduction of the Bill early in 2010."

Copies of the draft legislation and the explanatory material can be obtained at www.treasury.gov.au

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