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Tax insights
New Tax System for Managed Investment Trusts – Bill introduced

Snapshot

On 3 December 2015 the government introduced *Tax Laws Amendment (New Tax System for Managed Investment Trusts) Bill 2015* (the AMIT Bill) into Parliament.

The AMIT Bill removes some of the disincentives of being an AMIT contained in the Exposure Draft released on 9 April 2015 (the ED), makes it easier for a managed investment trust (MIT) to qualify as an AMIT and provides that the AMIT regime is elective from 1 July 2015[1]. It is therefore expected that managers will view the AMIT regime as more attractive, although the timing for making the election will need to be carefully considered, both in terms of the impact of the changes on members, as well as the adequacy of current processes, controls and systems. The AMIT Bill also introduces opportunities to create new types of fund products using the election to treat classes of units as separate AMITs.

The AMIT Bill contains a number of amendments, including the non-arm's length

[1] Unless otherwise stated, for trusts with substituted accounting periods the application date is the income year starting on or after the relevant date.

income rule (NALIR), which will apply to all MITs, even where no AMIT election has been made. These changes apply from 1 July 2016, or from 1 July 2015 if an AMIT election has been made.

Under the AMIT Bill, where a MIT satisfies the investment management activities requirement it will qualify as a withholding MIT (WMIT). Where a WMIT is an AMIT, withholding tax (WHT) will be imposed on deemed payments (e.g. fund payments) rather than on actual distributions, and the WHT liability will be recoverable by the AMIT or custodian as a debt from investors (e.g. where the actual distribution is less than the WHT liability).

The AMIT Bill includes welcomed changes to repeal the corporate unit trust rules in Division 6B and restrict the application of the public trading trust rules in Division 6C (with effect from 1 July 2016) and expand the list of qualifying investors for the purposes of the MIT widely held test to include certain interposed entities and foreign life insurance companies (with effect from 1 July 2014).

The Australian Taxation Office (ATO) has also introduced a suite of draft Law Companion Guidelines (LCGs) to accompany the AMIT Bill. The LCGs contain the ATO's views on the application of various important aspects of the rules and are proposed to be finalised as public rulings following enactment of the AMIT Bill.

The AMIT Bill introduces a range of new issues and opportunities for fund managers which will require detailed consideration. In addition, the AMIT Bill proposes a number of other changes that will apply retrospectively.

The following provides a high level summary of the AMIT Bill to assist you in considering the impacts of the AMIT Bill on your current and future funds. It also details various proposed trustee taxation provisions which are part of the AMIT Bill.

As with any legislation of this type, there will undoubtedly be further issues that are uncovered in practice or based on the administration or interpretation of the rules by the ATO and, ultimately, by the courts.

Summary of proposed amendments

Application dates

Measure	Application date
Elective AMIT regime[1]: • Attribution • Overs / unders[2] • Deemed fixed trust treatment • Unit cost adjustments (increases and decreases) • Class AMIT election[1] • Debt-like trust instruments • Deemed payments rule and recovery from investors[3] • Treatment of fund payments as non-assessable non-exempt income (**NANE**) for foreign trustee investors	Election available from 1 July 2015
MITs: • Non-arm's length income rule[4]	1 July 2016 (or 1 July 2015 if a 1 July 2015 AMIT election is made)
New categories of deemed widely held investors: • Wholly owned subsidiaries • Certain limited partnerships • Foreign life insurance companies	1 July 2014
Removal of the 20% tracing rule in Division 6C (public trading trusts)	1 July 2016
Repeal of Division 6B (corporate unit trusts)	1 July 2016
Tax deferred income deemed non-assessable	1 July 2011 (fixed date)

1. This election is irrevocable.
2. Pre-AMIT overs / unders can be brought into the AMIT regime provided an AMIT election is made with effect on or before 1 July 2017.
3. Only applies if the AMIT is a withholding MIT.
4. Transitional rule prevents application before 1 July 2018 to arrangements in place before 3 December 2015.

What's new

For those that were familiar with the ED, the following is a summary of the main changes contained in the AMIT Bill:

- The trustee of a MIT must elect for the AMIT regime to apply. This election is irrevocable.
- The test of members having clearly defined interests (CDIs) has been simplified and new "safe harbours" have been introduced covering registered MITs and MITs with a single class of unit. The Commissioner's discretion to treat a trust as having CDIs has been removed. The ATO has issued LCG 2015/D4 detailing considerations in respect of whether a trust has CDIs.
- The requirement to apply an uplift to "big" unders has been removed.
- Where a fund payment exceeds the cash distribution of an AMIT or custodian, the investor will have a statutory debt payable to the AMIT or custodian. Under the ED the liability was imposed on the trustee of the AMIT.
- AMIT member annual (AMMA) statements will need to include information relating to cost base adjustments. An AMIT will have 4 years after the end of the income year to which the AMMA statement relates to issue a revised AMMA statement – under the ED this was limited to 3 years.
- The NALIR applies more broadly to MITs (under the ED it only applied to AMITs) but requires a determination to be made by the Commissioner. The rate applicable to any non-arm's length income (NALI) taxable under the NALIR has decreased to 30% from 49%. Issues in relation to NALI resulting from dealings between sub-trusts of an AMIT have sought to be addressed. The transitional rule for pre- 3 December 2015 arrangements has been extended by 1 year to 1 July 2018.
- The AMIT Bill addresses the issue of "top up" tax payable by certain foreign trust investors, ensuring that fund payments from AMIT are treated as NANE.
- Certain interposed limited partnerships are deemed to be widely held entities for the purposes of the MIT rules and issues with the interposed company rules have been addressed.

AMIT Benefits / Risks and timing of election

Trustees will need to evaluate the benefits and risks associated with entering the AMIT regime, and the timing of entry.

A summary of potential benefits and risks is set out below. While codification of industry practice may be seen as maintaining the status quo, there is risk involved in continuing to rely on such practices and the way in which the rules are currently administered

Benefits

- Unit cost increasing adjustments
- Class AMIT election
- Debt-like trust instruments
- Attribution de-linked from present entitlement

Codification of industry practice

- Attribution on a fair and reasonable basis
- Overs / unders
- Deemed fixed trust treatment
- MIT WHT and deemed payments
- Unit cost decreasing adjustments for revenue assets

Risks

- Over / under penalties
- Attribution penalties
- Shortfall taxation
- Trust resettlement

Some potential factors which may impact on the timing of any election

Factors which may suggest bringing forward the election

- The extent of any pre-AMIT unders (such unders can be brought into the AMIT regime provided the trust becomes an AMIT on or before 1 July 2017)
- The generation of tax losses and the benefit of deemed fixed trust treatment under the AMIT regime

- Transactions (e.g. Scrip for scrip transactions or the sale of non-taxable Australian property) where deemed fixed trust treatment may be beneficial
- Fund payments exceeding cash payments, and accessing the benefit of cost base uplifts and the deemed payment rules.

Factors which may suggest delaying the election

- The time required to properly consider all the impacts and obtain board approval
- Timing constraints in respect of amendments to the trust deed / constitution (in particular if this requires a member resolution)
- Assessment of the adequacy of systems, people, processes and controls (both internally and from external providers)
- General caution in respect of potential new and previously identified but unresolved technical deficiencies in the legislation
- Managing investor relations.

Features of the AMIT Regime

1. Qualification

A trust will be an AMIT if:

- the trust is a MIT;
- all the members have CDIs in the trust; and
- the trustee has elected to apply the new tax system.

The members of a trust will be taken to have CDIs if any of the following safe harbours are satisfied:

- the trust is a registered managed investment scheme (MIS);
- the rights to income and capital arising from each of the membership interests are the same, disregarding the following:
  - fees or charges imposed on the members;
  - issue and redemption prices of membership interests in the trust;
  - exposure of the membership interests in the trust to foreign exchange gains and losses.

Where a trust does not fall within one of the abovementioned safe harbours, the ordinary meaning of CDIs must be considered. The question of whether a trust has CDIs is a principle based test and LCG 2015/D4 sets out a number of relevant considerations.

The trustee of a MIT must elect to apply the new tax system for an income year. The election can be made for any income year but once made, it is irrevocable (i.e. it will apply for subsequent income years provided that the MIT continues to meet the other qualifications for AMIT treatment).

Deloitte perspective

Managers will need to determine whether an election should be made to apply the AMIT regime to a trust and the effective date for such an election.

A number of factors impact on whether this election should be made, as well as the timing of the election (refer above).

For unregistered MITs with multiple classes of units it should still be possible to satisfy the CDI requirement. However, the inability to rely on the safe harbours may lead to trustees seeking confirmation through a private binding ruling.

2. Attribution

AMITs will not be subject to the current requirements that beneficiaries are "presently entitled" to the "income of the trust estate", thereby effectively de-linking the tax payable by members from the trust income distribution.

Trust components

An AMIT will instead be required to determine the “trust component” of each “character”. Trust component characters are grouped into 3 income character types (being characters relating to assessable income, exempt income and non-assessable non-exempt income) as well as a character relating to tax offsets. An AMIT will still need to determine trust components of more specific characters (e.g. a trust component of the character of a discount capital gain from a capital gains tax (CGT) asset that is taxable Australian property).

Each "determined trust component" (i.e. each trust component of a particular character as determined by the manager) can then be attributed to members on a fair and reasonable basis in accordance with the constituent documents (including any PDS or other document setting out the terms of the members' interests) of the AMIT, provided this does not involve streaming amounts of a particular character because of the tax characteristics of the member.

Member components

The trust components attributed to members must be captured as "determined member components" in the AMMA statements issued to members. An AMMA statement should be issued to each member no later than 3 months after income year end. An AMIT has 4 years after the end of the income year to which the AMMA statement relates to issue a revised AMMA statement.
A member will be able to dispute the reasonableness of the attribution through the member's tax return, which may expose the trustee to tax on any differences. The member must provide written notification to the trustee and the ATO (lodgement of income tax return is sufficient notification to the ATO) within 4 months after the end of their income year (that is, generally, by 31 October). The notification should include all relevant information including details of the reason for the dispute.

Deloitte perspective

Trustees will need to review constituent documents to determine any changes required to provide for the attribution of tax to members on a fair and reasonable basis (either in accordance with the current practices of the manager or based on other fair and reasonable practices). The extent to which the trust deed or constitution will need to be amended will require careful consideration, as will the potential for re-settlement of the trust as a result of any amendments. ASIC relief with respect to the need to hold unitholder meetings for amendments is currently being discussed with industry.
Trustees may also want to consider retaining / including default present entitlement clauses to safe guard in the event that the trust ceases to be an AMIT (e.g. due to failing the "closely held" test in the future).

The AMIT Bill includes a number of safe harbour rules to clarify that attribution will not fail to be fair and reasonable in certain situations including the attribution of a specific capital gain on the disposal of an asset to fund a redemption (if this is provided for in the constituent documents), attribution of an under or over, or the attribution of a capital gain to investors who were not members at the time that the capital gain was realised.

LCG 2015/D7 also provides a number of examples of situations where particular types of attribution may be fair and reasonable, including attribution of short term capital gains to certain redeeming members based on their period of investment. There is also recognition that it may be fair and reasonable basis to attribute amounts in respect of an income year to an investor who is a member at the relevant distribution record date, even if the investor was not a member at any time during the income year.

Trustees should consider how the fair and reasonable attribution rules may impact on future distributions and whether attribution policies should be considered and/or communicated to investors to seek to reduce the risk that members will dispute the reasonableness of their attribution.

3. Non arm's length income rule

The NALIR applies more broadly to MITs (rather than just to AMITs as per the ED). The trustee of a MIT will be subject to tax at 30% on any NALI, as reduced by directly attributable deductions where a written determination has been made by the Commissioner.

NALI is defined as amounts derived under a scheme the parties to which were not dealing at arm's length to the extent it exceeds an arm's length amount.

The NALIR is broad enough to include NALI derived by a non-AMIT sub-trust. However, the NALI excludes distributions from sub-trusts where there is either a corresponding reduction in the income distributed by another sub-trust, or the NALI is a result of an undercharge to the sub-trust (e.g. interest free loans are made to a sub-trust). For interest on loans there is a safe harbour rate equal to the greater of the "benchmark rate of return" or the Shortfall Interest Charge (SIC) being 5.14% for the December 2015 quarter. Transitional rules apply for payments before 1 July 2018 for arrangements entered into before 3 December 2015.

The amount of NALI on which tax is applied is treated as an over in the income year of the determination.

LCG 2015/D15 also provides that interest derived from on-lending at the weighted average cost of external debt (on a stand-alone or whole of group basis) would be arm's length income. Similarly, borrowing from a third party and on-lending at the same rate would result in no NALI after the reduction for directly attributable deductions.

Deloitte perspective

It is expected that the operation of the NALIR will be a significant area of focus for stapled groups with cross stapled loans or leases in place. In accordance with LCG 2015/D15, the NALIR does not require trustees to consider the arm's length income assuming arm's length conditions, rather the arm's length rule is applied to the actual arrangement taking into account existing matters such as guarantees, the level of capitalisation, the nature of the assets held by each entity, the size of borrowings, and other features.

Where cross stapled loan arrangements do not fall within the examples provided in LCG 2015/D15 or the SIC safe harbour, managers will need to consider the relevant benchmark rate of return (which generally requires an analysis of the rate on a comparable loan in the market), or otherwise substantiate the arm's length nature of loan arrangements and, if necessary, restructure existing loan arrangements prior to 1 July 2018.

LCG 2015/D15 contains some additional comments in relation to certain "unified businesses" carried on by stapled groups which are difficult to reconcile with the actual AMIT Bill and the accompanying EM. In these cases the Commissioner contends that the MIT and the company should each achieve the same level of return on investment, despite the different assets, functions and risks associated with the businesses carried on by two entities. While apparently directed at infrastructure privatisation transactions this view could result in uncertainty for other industries (e.g. the leasing of hotel assets to operators).

4. Overs / unders

The AMIT rules codify the treatment of over / under distributions (e.g. situations where the actual taxable income of the trust is over or under the taxable income notified to members at the time of distribution) by allowing the AMIT to carry an over / under forward to the year in which it is discovered.

Overs / unders are calculated separately for each character type and can be attributed to members in the "discovery year" by adjusting the trust component of the relevant character in that year. Alternatively, an AMIT can revise its AMMA statements relating to the income year in which the variance occurred. An AMIT has 4 years from the end of the relevant income year to issue revised AMMA statements.

Overs / unders for income years before a trust became an AMIT can be included in over / under calculations after the trust becomes an AMIT, provided the AMIT election is made with effect from 1 July 2017 or an earlier income year. When a trust ceases to be an AMIT and discovers an over / under from an income year when it was an AMIT, the over / under rules will apply for the trust in the discovery year.

Deloitte perspective

While the carry forward of overs / unders is in line with current industry practice, it has strictly never been accommodated by the tax rules. Making an AMIT election eliminates the potential uncertainty associated with over / under adjustments. The removal of uplift requirements for "big" unders / overs is a welcome change and removes one of the major disincentives of electing into the AMIT rules.

A number of issues arise for managers, including systems changes that will be required to accommodate the determination of overs / unders by character type and consideration of new processes to seek to reduce the risks of overs / unders arising to members.

In an acquisition scenario, the codification of overs / unders may shift the risk of historical errors to the members and trustee of the acquirer. Therefore, more detailed due diligence may be required where the target or acquirer is, or will become, an AMIT. In some situations, consideration could be given to including an ability to re-issue AMMA statements to pre-acquisition members under the sale and purchase agreement to avoid overs / unders arising post acquisition.

5. Deemed fixed trust treatment

AMITs will be deemed to be fixed trusts.
Fixed trust treatment facilitates:

- satisfaction of the carry forward loss rules
- satisfaction of the holding period rule for accessing franking credits,
- access to certain CGT roll-overs (e.g. CGT relief for scrip for scrip takeovers)
- "flow through" of the non-resident CGT exemption.

Deloitte perspective

This addresses concerns that, under the current law, it is difficult (if not impossible) for a trust to satisfy the fixed trust definition, such that the favourable exercise of the Commissioner's discretion would be required in order to qualify as a fixed trust.

6. Shortfall taxation and penalties

Trustees can be subject to penalty tax if the AMIT has an under / over as a result of "recklessness" or "intentional disregard" of the law.

LCG 2015/D10 provides examples of behaviours of a trustee which may be considered to be "reckless", including where the trustee has not followed governance controls in place. Relevant controls are said to include the use of a registered tax agent, unqualified audited statutory accounts and/or satisfactory external auditor controls report covering the tax function, a proper resourced and qualified internal tax division and the outcomes and actions taken following any internal audit review of the tax function, processes and controls. The extent of such controls required will vary according to the size and resources of the trustee.

Failure to include an under determined by the Commissioner or to re-issue AMMA statements can also result in a shortfall assessment on the trustee and tax payable at 49%.

Deloitte perspective

Trustees should evaluate the adequacy of controls in place and review or develop documentation evidencing the adherence with controls to mitigate potential penalties.

LCG 2015/D10 also includes examples of situations where trustees will not be considered reckless, including where a trustee relies on third party estimates or makes its own estimates of distributions and components based on historical information. Errors caused by existing, legacy or new IT systems are also not generally reckless unless such errors could be fixed or corrected at a reasonable cost. In addition, adopting general industry practice would not be considered reckless.

7. Tax deferred income not assessable

Distributions of tax deferred income (e.g. distributions sheltered from tax by depreciation deductions) by an AMIT will be deemed to be non-assessable, with effect from 1 July 2011 (unless the payments have previously been included in assessable income).

Deloitte perspective

This deals with the concern that such amounts could be assessable to “revenue account” members (for example, life insurance companies). The tax deferred distribution will reduce the cost of the membership interest (that is, increase any gain / reduce any loss on disposal).

8. Cost base adjustments

Where the taxable distribution from an AMIT exceeds the cash distribution, members will be permitted to increase the cost base of their units. The rules also specifically provide for adjustments to the cost of units held on revenue account. Cost adjustments will need to be shown on the AMMA statement.

Deloitte perspective

This adjustment prevents the double taxation that may otherwise arise where members have previously suffered reductions in the cost base of their units through the receipt of tax deferred distributions.

9. Class AMITs

AMITs with multiple classes of units will be permitted to make an irrevocable election to treat each class of units as a separate AMIT with separate trust property (Class AMIT). Making the election quarantines taxable income and losses to the members of the relevant class.

If the AMIT has a tax loss, net capital loss or expenditure that does not relate solely to a particular class, that tax loss, net capital loss or expenditure must be allocated between classes on a fair and reasonable basis.

Each Class AMIT does not need to separately qualify as an AMIT (e.g. meet the “widely held” requirement). That is, the trustee first determines whether the trust qualifies as an AMIT and makes the AMIT election before making a further Class AMIT election.

Deloitte perspective

This change provides managers with substantial flexibility in the structuring of funds (e.g. allowing the issue of separate classes of units for individual assets or pools of assets). One of the drivers for the Class AMIT changes was to help facilitate multi-currency, multi-class units for a fund, to attract non-resident investment. This measure enables foreign currency exchange impacts to effectively be quarantined in the relevant class.

Managers should consider the opportunity to establish new types of funds and whether units in existing funds could be split into classes.

For existing MITs making the Class AMIT election, any carried forward tax attributes (such as tax losses or net capital losses) must be allocated to to Class AMITs on a fair and reasonable basis.

LCG 2015/D5 confirms that notional transactions between Class AMITs must be recognised for tax purposes. Care will need to be taken to document such notional transactions appropriately to avoid unintended tax consequences..

10. Debt-like trust instruments

AMITs are able to claim deductions for distributions on certain debt-like trust instruments. Distributions on debt-like trust instruments are also treated as interest for the purposes of the interest withholding provisions and will fall outside the attribution rules.

A membership interest will be a debt-like trust instrument if the distribution relating to the interest is fixed by reference to the amount subscribed, any distribution is made solely at the discretion of the trustee, it ranks above all other classes of units and the trust deed prohibits distributions on other units or stapled securities ahead of distributions on the debt-like trust instruments.

Deloitte perspective

As the requirements are very prescriptive, this measure is unlikely to affect a large number of existing hybrid financing structures but may facilitate new types of financing arrangements by AMITs going forward..

11. Cost base adjustments

In situations where a taxable distribution to a non-resident recipient exceeds the cash distributed, the current rules are unclear as to the amount on which MIT WHT is to be applied.
For AMITs, WHT will clearly apply to the whole taxable distribution. Where the cash distribution is insufficient to satisfy the WHT obligation, the trustee (or custodian) must pay the WHT to the ATO and recover the shortfall from the non-resident recipient. .

Deloitte perspective

The potential mechanisms for collecting MIT WHT in cases where the distribution paid was insufficient were subject to significant debate during the consultation process. The creation of a statutory debt in favour of the trustee or custodian will require communications to members and potentially changes to existing agreements in order to provide sufficient comfort around the ability to recover the WHT shortfall..

MIT Qualifications – New Categories of Deemed Widely Held Investors

Managers should review existing structures and consider whether the changes allow an existing trust to satisfy the widely held test. Given the retrospective nature of the change, trusts which become MITs due to the amendments may be faced with withholding obligations on distributions that have already been paid.

The extended list will also be relevant in establishing new funds. The uncertainty existing prior to the enactment of the measures will need to be factored into any tax forecast for acquisitions or divestments

1. Foreign life insurance companies

Foreign life insurance companies regulated under a foreign law will now qualify as deemed widely held investors

Deloitte perspective

This change provides an enormous pool of investment funds with access to the MIT rules..

2. Wholly owned subsidiaries

Entities that are wholly owned by one or more widely held entities will also be deemed to be widely held.

Deloitte perspective

This change will open up the MIT rules to a number of common offshore investment structures that previously would not have qualified, for example structures with corporate blockers. While not providing the flexibility of a complete look-through, the change may accommodate structures involving one widely held investor, or a small group of widely held investors, investing through an entity regarded as a company for Australian tax purposes.

3. Certain limited partnerships

A limited partnership will also be deemed to be widely held if:

- at least 95% of its membership interests are owned by widely held entities; and
- the remaining membership interests (if any) are owned by a general partner that habitually exercises the management power of the limited partnership.

Deloitte perspective

Allowing offshore limited partnerships with widely held limited partners to be treated as widely held entities for MIT purposes is a welcomed extension from the changes set out in the ED. Again, the amendments are best suited to a single widely held investor or small groups of widely held investors. The 95% requirement would need to be considered carefully in respect of any realisations of assets or other events which may trigger a "carried interest" entitlement for the limited partner.

The limited partnership rules do not apply to multiple tiers of limited partnership (e.g. fund of fund investors).

Other changes

1. Removal of 20% rule tracing rule in Division 6C

A trust will no longer be a public unit trust by virtue of 20% or more of its members being complying superannuation funds.

Where a trust is not a public unit trust it will not be a public trading trust and therefore not taxed in a similar way to a company (i.e. it will be a flow through trust) despite carrying on a trading business.

Deloitte perspective

This opens up the opportunity for complying superannuation funds to invest in operating businesses and categories of real estate which would not have been available via a flow through trust in the past (e.g. hotel operations, retirement villages, student accommodation, property development and residential).

Transitional rules for existing trusts which cease to be taxed as companies have been included in the AMIT Bill. As a result of these rules, these trusts have until 30 June 2018 to utilise franking credits..

2. Repeal of Division 6B

Division 6B is an old integrity rule that operated to cause a trust to be taxed in a similar way to a company if it offered units in return for the acquisition of assets.

Deloitte perspective

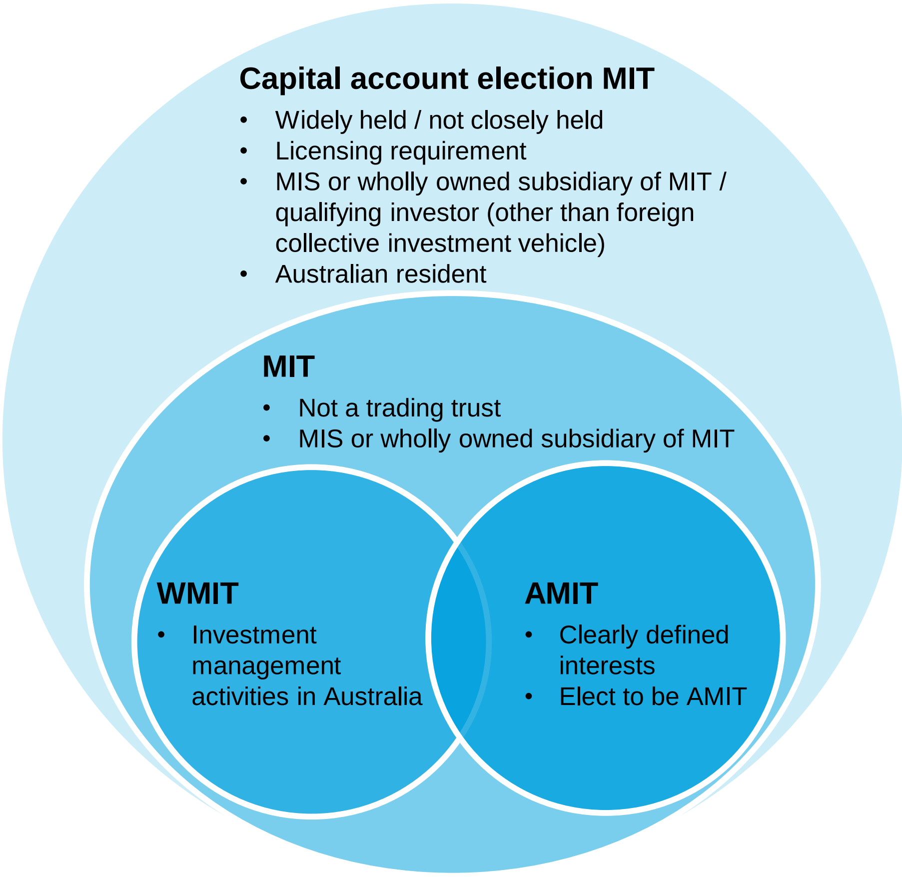
The repeal of Division 6B will increase certainty in restructuring transactions.

Trustee Taxation Provisions, Penalties and Rates

Brief outline of change	Rate of tax / penalty
1. Taxable member components attributed to foreign resident members Where a foreign resident member has a taxable member component of an assessable income character in respect of an AMIT (that is not a WMIT). The tax rates applicable depend on whether the foreign resident member is an individual, company or trustee of a foreign resident trust. These provisions effectively replicate the effect of section 98 of the Income Tax Assessment Act 1936.	If the member is a: Company – 30% Foreign resident individual – 47%[2] (top rate) Trustee of a foreign resident trust - 47%[2]
2. Trust component deficit for tax offset characters Where an AMIT has a negative tax offset (due to tax offset overs), other than foreign income tax offsets.	Tax payable = amount of the trust component deficit
3. Shortfall in determined member component (assessable income character) Where a member disputes the reasonableness of the attribution of assessable income character type resulting in a shortfall.	49%[1]
4. Excess in determined member component of a tax offset Where a member disputes the reasonableness of attribution of a tax offset character type resulting in an excess.	Tax payable = amount of the excess of the tax offset
5. Determined trust component not reflected in member components Where a trustee fails to fully attribute all assessable income components to members.	49%[1]
6. Amounts of under of assessable income not properly carried forward Where a trustee fails to recognise an under of assessable income character in the discovery year (e.g. uncovered through ATO audit).	49%[1]
7. Amounts of over of a tax offset character not properly carried forward Where a trustee includes an over of a tax offset character in the discovery year (e.g. uncovered through ATO audit).	Tax payable = amount of over of the tax offset
8. Amount of non-arm's length income of a MIT Tax is applied on the NALI reduced by directly attributable deductions.	30%
9. Penalty if over / under resulted from intentional or reckless regard	Intentional disregard 49%[1] x 75% of shortfall Greater of: 60 penalty units or 49%- x 30% of excess Recklessness 49% x 50% of shortfall Greater of: 40 penalty units; or 49% x 20% of excess

1. Including 2% Medicare levy and 2% temporary budget repair levy (if applicable)
2. Including 2% temporary budget repair levy (if applicable)

Types of Managed Investment Trusts



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