Pitcher Partners Advisors Proprietary Limited
ACN 052 920 206

Level 13, 664 Collins Street
Docklands, VIC 3008

Postal address
GPO Box 5193
Melbourne, VIC 3001

+61 3 8610 5000

pitcher.com.au

Ref: AMK:lg

21 August 2026

The Treasury
Langton Crescent
Parkes ACT 2600
AUSTRALIA

By Email: *TaxChanges@treasury.gov.au*

Dear Sir / Madam

CAPITAL GAINS TAX AND NEGATIVE GEARING – TRANCHE 2 LEGISLATION

1. Thank you for the opportunity to provide comments on Capital Gains Tax and Negative Gearing – Tranche 2 Legislation (**Draft Legislation**).

2. Pitcher Partners specialises in advising taxpayers in what is commonly referred to as the middle market. Accordingly, we service many privately owned business and investment groups that are impacted by compliance burdens in the tax system, both legislative and administrative. Our submission focuses on compliance burdens affecting privately controlled groups.

3. We highlight that for the purposes of Division 30 of the *Tax Agent Services Act 2009* and, in particular, the amendments to the Code of Conduct by the *Tax Agent Services (Code of Professional Conduct) Determination 2024* ("**Determination**"), all of the comments made in this submission are directly relevant to us a as a firm and our clients. While this may result in a conflict of interest for the purposes of section 20 of the Determination, we highlight that we have tried to ensure that our comments and suggestions in this submission are balanced and consistent with the policy, principles and intention of the rules as we understand them.

4. We continue to hold concerns regarding the complexity associated with the deemed sale and reacquisition framework that underpins the capital gains tax reforms. In particular, the framework gives rise to a broad range of interaction issues with existing provisions of the tax law, many of which remain unresolved. Consistent with our

previous submissions, our preferred approach remains that taxpayers should not be required to apply a deemed sale and reacquisition mechanism to existing assets.

5. Notwithstanding this, we are encouraged by Treasury's ongoing consultation on the interaction issues arising from the reforms and the acknowledgement throughout the consultation materials that further amendments will be required. We encourage Treasury and the Government to continue identifying and resolving these interaction issues to ensure the regime can operate in a coherent and administrable manner.

6. Due to time constraints, this submission focuses on our key concerns with the proposed measures. We intend to provide a separate submission addressing a number of technical issues, as well as proposed corrections and clarifications to the Draft Explanatory Materials.

7. Our detailed comments and recommendations on the core issues are contained in the attachment to this submission. If you would like to discuss any aspect of this submission, please contact either Leo Gouzenfiter on (03) 8612 9674 or me on (03) 8610 5170.

Yours sincerely

A M KOKKINOS
Executive Director

ITEM 1 – CGT ADJUSTMENT AMENDMENTS (TRANCHE 2)

Deferral exemptions – anti-overlap interaction

8. We believe that the rules in proposed subsections 112-160(7) to (10) are highly complex and may not operate as intended in all circumstances. We have previously provided Treasury with technical comments on these provisions and continue to have concerns regarding both their scope and operation.

9. In particular, it is unclear whether these provisions accommodate all circumstances in which a gain or loss is disregarded, exempt, reduced or otherwise not recognised for tax purposes. We suggest that the concept of a deferral exemption may not be broad enough to capture all relevant outcomes. Further, we believe that the provisions may not appropriately deal with situations where principles outside the CGT provisions result in an amount being ignored or otherwise excluded from the tax calculation. While subsection 112-160(7) seeks to determine whether a deferral exemption applies by disregarding the deemed sale and reacquisition, it is not clear that this mechanism produces the correct outcome in all cases.

10. Given the breadth of assets, transactions and arrangements potentially affected by these provisions, it is critical that the rules operate correctly. There is a significant risk that the provisions could produce unintended outcomes or require taxpayers to undertake complex analyses across a wide range of fact patterns.

11. Examples that warrant further consideration include service receivables, liquidations and share cancellations, CGT event K6 gains, unpaid present entitlement balances, rights to sue and settlement payments, employees' contractual and statutory rights, gains that would otherwise qualify for the main residence exemption, earnout rights and straddle events involving uncompleted contracts. These examples are illustrative only and highlight the importance of ensuring that the anti-overlap rules have been sufficiently tested across the full range of circumstances in which gains or losses may be disregarded, exempted, reduced or otherwise not recognised.

12. We strongly recommend that Treasury continue to consult on this aspect of the proposed rules and undertake further testing across a broader range of fact patterns. Given the breadth and complexity of the deferral exemption provisions, and the potentially significant consequences of unintended outcomes, it is critical that taxpayers have certainty as to their intended operation.

13. We also recommend that additional examples be included in the EM demonstrating how the provisions are intended to apply across a range of common and complex scenarios, including where gains or losses are disregarded, exempted, reduced or

otherwise not recognised under either the CGT provisions or other provisions and principles within the tax law. This will assist taxpayers in understanding the intended outcomes and provide greater confidence that the provisions have been tested and operate appropriately across the full spectrum of transactions and arrangements to which they may apply.

Rollover provisions

14. Unless specifically addressed, many existing CGT rollover provisions may result in deferred gains or deferred losses being crystallised and affect tax liabilities at the time a rollover occurs in relation to the asset for which there was a deferred gain or loss. This would be inconsistent with the policy rationale underpinning those rollover provisions, which is generally to defer the recognition of gains and losses until a subsequent realisation event.

15. Given the number and complexity of the rollover provisions throughout the income tax law, we recommend that Treasury adopt a principles-based approach to preserving deferred gains and deferred losses through rollover transactions. In our view, the preferred approach is for any deferred gain or deferred loss to continue to be deferred and effectively attach to the replacement asset, with recognition occurring only upon an ultimate disposal outside a rollover environment.

16. We have separately provided Treasury with detailed comments on this issue and would welcome the opportunity to continue consulting on the development of an appropriate framework.

Revocation of capital account election

17. We note that many managed investment trusts have made irrevocable capital account elections under Division 275 on the basis that capital gains would continue to be eligible for the CGT discount. Following the CGT discount reforms, and putting aside the treatment of deferred gains and deferred losses, it is no longer clear that a capital account election will remain appropriate or beneficial for all funds. In those circumstances, it appears appropriate for the transitional measures to provide a mechanism for a managed investment trust to revoke its capital account election.

18. Any such revocation would need to be accompanied by appropriate transitional rules to ensure that assets with deferred gains or deferred losses attributable to periods before 1 July 2027 continue to be subject to the outcomes intended under the existing election framework. In our view, a managed investment trust should be permitted to revoke its capital account election from 1 July 2027, with the revocation applying only to assets acquired on or after the commencement of the income year for which the revocation

takes effect. This would prevent cherry-picking between revenue and capital treatment for existing assets, while ensuring that assets with deferred gains or deferred losses continue to be subject to the same treatment that would have applied had the election remained irrevocable. Such an approach would provide appropriate flexibility for managed investment trusts while maintaining the integrity of the regime and preserving the intended treatment of pre-existing investments.

Public unit trusts and Division 6C

19. The removal of the CGT discount may create additional pressure for public unit trusts to dispose of assets on revenue account in order to achieve acceptable after-tax returns for investors. This may, in turn, place increased pressure on Division 6C and, in particular on whether a trust will satisfy the requirements in section 102M of the ITAA 1936 to be regarded as investing in land primarily for the purpose of deriving rent.

20. For example, a property trust that acquires land primarily for the purpose of deriving rent may be incentivised to dispose of assets earlier than would otherwise be the case in order to maintain acceptable investor returns following the removal of the CGT discount. This may increase the risk that the Commissioner concludes the trust's investments in land are not held primarily for the purpose of deriving rent, causing the trust to fail the primary purpose test in section 102M of the ITAA 1936 despite there being no material change in the underlying nature of its activities.

21. A trust that is unable to remain outside of the Division 6C framework may be faced with significant administrative complexity including establishing new entities, obtaining new TFNs and ABNs, lodging different tax returns, issuing dividend statements instead of trust distribution statements and amending trust deeds and related documentation. These costs may arise solely as a consequence of the CGT discount reforms, rather than any change in the underlying commercial activities of the trust.

22. We therefore recommend that Treasury consider whether a permanent modification could be made to subsection 102MB(4). That provision currently requires capital gains and capital losses from the disposal or other realisation of land to be disregarded in working out gross revenue for the purposes of the safe harbour. However, where gains are brought to account on revenue account, subsection 102MB(4) may cease to provide meaningful protection. This issue appears to be recognised in TD 2011/21, including Example 5, which contemplates that amounts may not be capital gains where the relevant assets are held on revenue account and disposed within a defined period of time.

23. One possible solution would be to amend subsection 102MB(4) to read:

> *"(4) In working out the gross revenue referred to in subsection (2), disregard any capital gains and capital losses* ***(ignoring the operation of section 118-20)*** *from a CGT event arising from a disposal or other realisation of ownership of land."* ***[emphasis added to the proposed change]***

24. This amendment would assist in ensuring that amounts that would otherwise have been capital gains are not inappropriately counted as gross revenue merely because the operation of section 118-20 reduces or eliminates the capital gain through the recognition of an equivalent revenue amount.

25. The additional advantage of this change is that such trusts can continue to be treated as managed investment trusts and AMITs, as they will not breach the 'trading trust' requirement.

26. We note that there is already integrity contained within s 102MB. That is, the safe harbour provision cannot be applied to development land as such land is regarded as trading stock. Section 102MB(2)(a) excludes land that is otherwise held for the 'purpose of trading'.

27. However, if such an amendment is considered to be too broad, we request that Treasury consider a targeted concession for public trusts that have demonstrably operated as long-term rental property vehicles. For example, relief could be provided where the safe harbour in s 102MB has been satisfied for at least three prior consecutive income years, and would be satisfied in the current year if s 102MB(4) is otherwise applied to the gain on the sale of the asset.

28. This alternative would provide certainty for genuine rental property investment vehicles and avoid unintended Division 6C consequences arising solely from the CGT discount reforms.

Application of the deemed sale and reacquisition rules to trusts

29. The proposed residency requirements in paragraph 112-165(1)(d) are unclear and may prevent the deemed sale and reacquisition rules from operating as intended for many trust structures, resulting in a complete loss of CGT discount for residents deriving capital gains through trusts.[1]

30. The provision requires there to be at least one individual who is a direct member or beneficiary of the trust and satisfies the relevant residency requirements. However, it is unclear how this requirement is intended to apply where all interests in a trust are held

---

1 If there is not a deemed sale just before 1 July 2027, the requirements for a 50% discount would not be satisfied under section 115-100.

through one or more interposed trusts. In these circumstances, the trustee may have no practical ability to identify or test the ultimate individual beneficiaries or may not even be able to adopt such a look-through approach under the current exposure draft even if they can identify all its ultimate beneficiaries. As drafted, the provision may not operate appropriately for common trust-on-trust investment structures.

31. It is also unclear how the membership testing rules are intended to apply to discretionary trusts. Unlike fixed trusts, discretionary trusts generally have a class of potential objects rather than beneficiaries with fixed interests. As a result, it is uncertain whether an object of a discretionary trust can satisfy the requirements in section 112-200. If objects are not capable of satisfying the test, the provision may effectively prevent many ordinary discretionary trusts from accessing the deemed sale and reacquisition regime. We do not consider this to be an intended policy outcome.

32. We recommend that the legislation be clarified to ensure that the deemed sale and reacquisition rules appropriately flow through interposed trust structures and discretionary trusts where there is ultimately an Australian resident individual beneficiary. Without clarification, the provision may inadvertently deny access to the regime for common trust arrangements in circumstances that do not appear to be consistent with the underlying policy intent.

Choice for trusts not to apply cost base indexation

33. Proposed section 110-36A is a sensible measure intended to reduce compliance costs where no beneficiary can ultimately benefit from indexation.

34. However, the conditions for accessing the choice are unnecessarily restrictive and may significantly limit its practical operation. In many cases, particularly for unit trusts and AMITs with interposed trust investors, it may be impractical or impossible for a trustee to determine whether the requirements are satisfied. Further, testing eligibility immediately before the CGT event may produce outcomes that do not align with the entities that ultimately receive the gain.

35. More fundamentally, we consider that trustees should be permitted to elect not to apply indexation without any precondition. The policy purpose of section 110-36A is to reduce compliance costs. That objective would be better achieved by allowing a trustee to voluntarily forgo indexation where the expected benefit does not justify the complexity of calculating, tracking and reporting indexed gains.

36. This would provide a simple and practical outcome, particularly where indexation benefits are immaterial or where the application and subsequent reversal of indexation produce distortions because capital losses are not correspondingly re-applied. A

trustee should be able to choose the simpler methodology and forfeit any potential indexation benefit.

37. Allowing an unrestricted choice would reduce compliance costs for trustees, beneficiaries and the ATO, while ensuring taxpayers who wish to benefit from indexation remain able to do so. We therefore recommend that the conditions in subsection 110-36A(2) be removed.

Trustee choice of indexation or CGT discount for new residential dwellings

38. We refer to proposed subsection 115-103(3) which contains a rule allowing a trustee to choose not to apply the CGT discount for new residential dwellings. A similar rule is contained in proposed subsection 115-126(5) in respect of affordable housing.

39. The provision appears to allow the trust that made the original gain in respect of the new residential dwelling (e.g. the trust that actually sold the asset) to make a choice to apply the CGT discount or indexation for itself and all the members or beneficiaries, including both direct and indirect beneficiaries.

40. Paragraph 1.143 of the explanatory memorandum to the *Treasury Laws Amendment (Tax Reform No. 1) Bill 2026* ("**Tranche 1 Legislation**") stated:

> *1.143 If a trustee chooses for the cost base indexation method to apply to the capital gain, the same method applies to a beneficiary as though the choice to apply indexation was made by the beneficiary.*

41. Example 1.4 in the draft explanatory materials to the Tranche 2 Legislation appears to be inconsistent with the provision and the EM comment above as the example indicates that the choice to use indexation or the CGT discount is made afresh at every level in the distribution chain. We suggest that either subsection 115-103(3) or Example 1.4 is amended so that they are consistent with each other.

Flow-through of CGT discount for new residential dwellings through trusts

42. Entities through which the CGT discount for new residential dwellings can flow under proposed subsection 115-103(2) appear to be unduly restrictive. A similar issue arises under proposed subsection 115-126(3) for affordable housing.

43. In particular, we do not understand the policy rationale for excluding public unit trusts. Most managed investment trusts and AMITs are public unit trusts. As drafted, the provision appears capable of denying the flow-through of the CGT discount where a trust invests indirectly through a public unit trust, despite the same outcome being available if the investment were held directly by the ultimate investor or indirectly

through a single public unit trust. We do not consider this outcome to be consistent with the policy objective of encouraging investment in new housing.

44. The exclusion is also difficult to apply in practice, as investors will not necessarily know whether every interposed trust in an investment chain is or is not a public unit trust.

45. Further, it is unclear why partnerships are included in the provision. Capital gains do not generally flow indirectly through partnerships in the same manner as trusts. Similarly, if the concern is with entities that are not flow-through vehicles, the reference to a public unit trust may be intended to be a reference to a public trading trust, which more closely aligns with the policy rationale.

46. We recommend that the provision be simplified to allow the CGT discount for new residential dwellings to flow through ordinary trust investment structures without excluding public unit trusts. At a minimum, Treasury should reconsider whether the reference to a public unit trust is intended, and whether there is any need to include partnerships within the rule given that capital gains do not flow through partnerships.

CGT discount at trust level for new residential dwellings

47. Section 115-103 provides for a 50% CGT discount at the level of a trust that invests in new residential dwellings. Section 115-126 contains a similar rule for affordable housing.

48. This amends the Tranche 1 Legislation, under which section 115-102 only applied to individuals. That legislation appeared to make the CGT discount 0% at the trust level through the inclusion of paragraph 115-100(f). The EM stated the following at paragraph 1.136:

> *1.136 The amendments remove the 50 per cent CGT discount for individuals and trusts for capital gains arising on or after 1 July 2027. As part of this change, the amendments reduce the default discount percentage for a discount capital gain to 0 per cent. This ensures that the CGT discount is not available unless a taxpayer meets the requirements for a particular CGT discount in section 115-100, such as the new 50 per cent discount that maintains support for new residential dwellings, the discount of up to 60 per cent available for investment in affordable housing and the 33.3 per cent discount for superannuation entities.*

49. Example 1.14 in the EM was as follows:

> *Example 1.14 Making a discount gain under section 115-102 (indirect)*
> *The Trustee of the Gardenia Trust, an Australian resident trust, makes a capital gain of $800,000 from the sale of a CGT asset that comprises a new residential dwelling. The asset was held for more than 12 months. The Trustee applies the discount percentage (which, for the trust, is 0 per*

cent) to the capital gain in working out a net capital gain for the income year and makes an individual beneficiary Henri specifically entitled to a 40 per cent share of the capital gain. Henri is an Australian resident. Henri will apply the method in section 115-215 to determine that he has a capital gain equal to $320,000. In determining if he has a net capital gain for the income year, Henri can apply the discount percentage of 50 per cent which is applicable to him as an individual with a capital gain from a new residential dwelling, to any part of the capital gain remaining after step 4 of the method statement in subsection 102-5(1). Henri is not able to make a choice to apply indexation instead.

50. Given that the Tranche 2 Legislation seeks to reinstate the CGT discount at the trust level, we believe that paragraph 115-100(f) should be repealed as it no longer serves any purpose. It is not necessary to apply a 0% CGT discount to indexed capital gains, as such gains are not discount capital gains in the first place due to section 115-20.

51. Additionally, we believe that the EM to the Tranche 2 Legislation should include a revised version of Example 1.14 to provide certainty to taxpayers. This is due to the materially different outcomes that should arise.

52. With the introduction of section 115-103, Example 1.14 should not result in the Gardenia Trust applying a 50% CGT discount and having a net capital gain of $400,000 (rather than $800,000). Henri should apply section 115-215 to work out that he has a capital gain equal to $320,000, but this is done by applying paragraph 115-215(3)(b) to double the subsection 115-225(1) amount of $160,000, rather than applying paragraph 115-215(3)(a) to include a capital gain equal to the subsection 115-225(1) amount of $320,000.

53. This can lead to materially different outcomes if the Gardenia Trust has tax losses (current year or prior year). Under the Tranche 1 Legislation, a $400,000 tax loss would reduce the trust's net income from $800,000 (the net capital gain) to $400,000. This could flow through to Henri who may then have a $200,000 net capital gain after applying the CGT discount. Under the Tranche 2 Legislation, a $400,000 tax loss would reduce the trust's net income from $400,000 (the net capital gain) to nil, resulting in no taxable net capital gain in Henri's hands.

54. We recommend that this example be updated to reflect the operation of the Tranche 2 Legislation. Without amendment, taxpayers may be left uncertain as to the intended operation of the provisions due to the materially different outcomes produced under the two legislative versions.

Example 1.1 of Draft Explanatory Materials should be revised

55. We suggest that example 1.1 of the draft explanatory materials relating to attribution of indexed gains by AMITs be revised to better clarify the operation of proposed subsections 276-85(4A)-(4B).

56. Firstly, the example seems to suggest that the rule to reverse indexation will apply in the ordinary case rather than only in cases where the member is not eligible for indexation (e.g. a company or complying superannuation fund). The example should make clear that the member is a particular kind of member and that is why the special rule is being applied.

57. Secondly, we suggest that the last sentence be removed. This states that:

> *This allows the member to apply indexation if they are entitled to do so in their own right.*

58. This further suggests that the special rule applies in all cases and that the member may or may not be able to apply based on their particular characteristics. Instead, where the special rule applies, it applies precisely because the member would not be able to index the cost base had they held the asset directly. Therefore, there should be no entitlement to apply indexation in their own right. There may, however, be an entitlement to apply the CGT discount (e.g. for a complying superannuation fund) and the example should state this instead.

59. Additionally, there is no statutory mechanism for a beneficiary of a trust to apply indexed to a gain that flows to them through a trust. Indexation can only be applied to increase a cost base, rather than reduce a capital gain. If a beneficiary was required to gross-up a capital gain to remove indexation it would have no ability to then apply indexation as they never held the relevant CGT asset or incurred the relevant cost base expenditure to begin with.

60. To this end, we believe example 1.4 is also incorrect as it suggests that beneficiaries of trusts or member of AMITs could forgo the CGT discount on new residential dwellings and apply indexation instead. In addition to our comments above, that we do not believe the proposed provisions actually allow for such a choice to be made by beneficiaries, the inability to actually apply indexation to a gain flowing to the beneficiary or member is a further reason for revising the example.

ITEM 2 – METHOD FOR APPORTIONING CAPITAL GAINS AND CAPITAL LOSSES DETERMINATION

Apportionment methodology in the legislative instrument

61. We submit that further consideration be given to the apportionment methodology contained in the legislative instrument. In a number of cases, the methodology appears likely to produce outcomes that do not appropriately reflect the economic growth in the value of an asset over the relevant period.

62. For assets with a relatively low cost base compared to their market value, such as shares in a company, the calculated growth rate can be extremely high. This can result in a disproportionate amount of the overall gain being attributed to the post-1 July 2027 period, even where a substantial portion of the economic growth occurred prior to that date. Similarly, for assets with a nil cost base, such as internally generated goodwill, the methodology appears incapable of operating as the required growth rate cannot be calculated. This creates a practical issue that is mathematically unsolvable under the current approach. Even if this 'divide by zero' error was overcome by deeming the cost base to be a small nominal amount (e.g. $1), the growth rate would be so large that in most cases the value at 1 July 2027 would still remain a nominal amount (e.g. $100 representing 10,000% growth to that point in time).

63. Another issue involves assets with significant capital investment over time, particularly real property developments and constructed assets. In these cases, the use of only first element cost base amounts can similarly distort the result by failing to appropriately reflect the timing and nature of expenditure incurred in creating value in the asset. This has a similar effect to the low cost base example noted above.

64. These outcomes are likely to increase the proportion of deferred gains treated as post-1 July 2027 gains that are not eligible for the CGT discount. In practice, taxpayers are likely to rely on market valuations in many cases in order to avoid distorted outcomes. We do not believe this will protect the revenue, as an appropriately prepared market valuation should generally produce a more accurate outcome in any event. Rather, the practical effect of the methodology is likely to be increased compliance costs for taxpayers, increased demand on an already constrained valuation profession and a greater risk of disputes and litigation regarding the correct treatment of gains.

65. We therefore recommend that Treasury reconsider the methodology and explore alternative approaches. One option would be to provide a straight-line days basis apportionment method as a practical safe harbour for affected assets. Alternatively, Treasury could consider a more robust internal rate of return methodology that better

reflects economic growth over time, although we acknowledge that such an approach would still not resolve the issues that arise for assets with a nil cost base.

66. In our view, any alternative should be assessed against the objectives of producing reasonable outcomes, minimising compliance costs and reducing the need for taxpayers to obtain valuations in circumstances where the legislative formula is incapable of producing a reliable result.

De minimis threshold

67. We recommend that Treasury consider introducing a de minimis threshold to reduce compliance costs for taxpayers with relatively small gains on assets held before 1 July 2027. In many cases, the cost of undertaking an apportionment calculation, obtaining supporting records or commissioning a valuation and undertaking indexation calculations may be disproportionate to the tax outcome at stake.

68. One possible approach would be to provide that where a CGT asset was acquired before 1 July 2027 and the total capital gain on disposal does not exceed a prescribed threshold (for example, $10,000), the entire gain is treated as eligible for the CGT discount without any requirement to undertake an apportionment calculation. For example, this could be achieved by deeming the value for such assets at 1 July 2027 as being the capital proceeds from the realisation event. This would provide a practical compliance concession for taxpayers while allowing the apportionment rules to remain focused on transactions where the revenue impact is more material.

69. Such a measure would significantly reduce compliance costs, remove the need for valuations and complex calculations in low-value cases, and allow both taxpayers and the ATO to focus their resources on higher-risk transactions. Given the relatively small amounts involved, we do not expect a de minimis threshold of this nature to have a material impact on revenue collections, while the reduction in compliance costs would be substantial.

Time of realisation event

70. We recommend that Treasury provide further clarity regarding how the period up to the realisation event is intended to be measured for the purposes of the apportionment rules. In particular, it is unclear whether the relevant period is determined by reference to the date on which the CGT event happens, the precise time at which the CGT event happens, or whether the CGT event timing rules affect the calculation period.

71. As an example, consider CGT event A1, where subsection 104-10(3) provides that the time of the event is generally when the disposal contract is entered into, rather than

when ownership changes on settlement. It is therefore unclear whether the relevant period to determine the growth rate ends on the contract date, the settlement date or some other time.

72. We recommend that Treasury clarify how the CGT event timing provisions interact with the apportionment methodology and include examples illustrating the intended outcome where there is a gap between contract date and settlement date, or more generally where the statutory time of a CGT event differs from the time at which the underlying economic transaction is completed. Given that the starting time for counting days is when the asset is acquired, we believe it is more appropriate to test the days until the time of the CGT event. Providing clarity on this issue will provide taxpayers with greater certainty and assist in the consistent application of the rules.