



# *Compliance Committee Forum*

Update on income tax issues for managed funds

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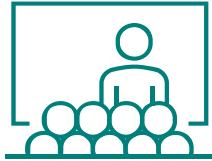
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# *Considering COVID-19 impacts*

# Assessing the impact of COVID

## *Jobkeeper for trustee or management entity*



Management fees  
and performance fees  
determined for  
30 June 2020



If previously haven't  
assessed Jobkeeper,  
should now be in  
a position to assess  
and register for  
remaining periods



19 July 2020 is FN8.  
Six fortnights left with  
\$1500 per fortnight  
(or \$9000)

# Assessing the impact of COVID

## Determining assessable income

Item of income	Key issues for consideration
Rental income	▶ <b>Assessability of amounts</b> subject to waiver or deferral under rental relief schemes. Consider treatment for arrangements not settled at 30 June.
Trust distributions	▶ <b>Understanding the amount of taxable income</b> flowing from investments in other trusts. Consider impact on over or under-assessment.
Interest income	▶ <b>Non-accrual loan assessment</b> or ability to turn off interest under the TOFA provisions.
Other amounts	▶ Considering whether <b>income</b> is derived at 30 June 2020 and whether <b>bad debts</b> can be claimed.
Bad debt deductions	▶ Were <b>debts</b> written off as bad in 30 June 2020? Will <b>deductions</b> be claimed in 30 June 2021?

May impact the definition of net income and amounts to be distributed as well as the amounts allocated to investors

# Assessing the impact of COVID

## Understanding your distribution entitlement clause

**The Net Income of the trust** means an amount, unless otherwise determined by the Trustee, that is calculated in the same manner as **net income is calculated under the Tax Act**



COVID impacts on  
**the taxable income  
calculation**

**The Net Income of the trust** means an amount, unless otherwise determined by the Trustee, that is **determined by the application of generally accepted accounting principles**



COVID impacts on  
**the profit and  
loss statement**

# Assessing the impact of COVID

## Issues for trust distributions

These issues may be easier to manage where a fund is an AMIT for 30 June 2020 (note election can be made by the time of lodging the tax return where conditions are satisfied)

### Accounting and tax differences



There may be large accounting and tax differences due to the nature of certain expenses (e.g. rent relief, disputed income, provision for doubtful debts, asset impairments)

*How does this impact on income of the trust and resolutions for 30 June 2020?*

### Negative assets



Trusts may fall into a deficiency of asset position but may have a taxable position for 30 June 2020

*What is the impact of making a distribution?*

### Paying the distribution



Banks may place restrictions on paying entitlements or funds may look to delay distribution dates

*Does that impact on whether there is a present entitlement (where the Fund is not an AMIT)?*

# Assessing the impact of COVID

## Issues for trust distributions

ITEMS	ACCOUNTING	TAX
Realised income	\$100,000	\$100,000
Provision for doubtful debts	(\$20,000)	-
Impairment of investment assets	(\$75,000)	-
Expected reductions due to rent relief	(\$12,000)	-
Other expenses	(\$25,000)	(\$25,000)
<b>Net amount</b>	<b>(\$32,000)</b>	<b>\$75,000</b>

- What is the **income** of the trust estate (trust law definition v s.95 definition)?
- What is the **distributable income** at 30 June 2020?
- Did the trustee make a **resolution** prior to 30 June 2020?
- Is there a **risk** of a trustee assessment?

# Assessing the impact of COVID

## Impact on net asset values

**Gross Asset Value** generally can be defined as total assets of the Fund applying Australian Accounting Standards (as required by tax fixed trust rules)

NAV may be impacted by



**Valuation  
uncertainty**



**Asset  
impairments**



**Distribution  
quantum**

### *Flow on impacts for consideration*

NAV may impact on the values used for distribution reinvestments, superannuation fund reporting, investment reporting, issuing new units, redeeming units.  
Many funds have placed a hold on these activities



## *Key other issues for 30 June 2020*



Assistant Treasurer announced (on 30 June 2020) that the Government will defer the removal of discount capital gains for managed funds. When implemented, managed funds will no longer be able to apply deductions (e.g. management fees) against discounted capital gains.

30 June 2020

## Revised start dates for technical superannuation and taxation measures

The Morrison Government has today announced revised start dates for a number of technical superannuation and taxation measures to provide clarity and certainty for taxpayers and superannuation fund managers.

These revisions are a result of the reprioritisation of Government resources and the shortened parliamentary sitting period in 2020 due to the COVID-19 crisis.

Measure	Revised start date
Superannuation — increasing the maximum number of allowable members in self-managed superannuation funds and small APRA funds from four to six	Start date revised from 1 July 2019 to Royal Assent of the enabling legislation.
Tax Integrity – removing the capital gains discount at the trust level for Managed Investment Trusts and Attribution MITs	Start date revised from 1 July 2020 to the income years commencing on or after three months after the date of Royal Assent of the enabling legislation.
Petroleum Resource Rent Tax — changing the PRRT settings to get a fair return (compliance and administration changes)	Start date revised from 1 July 2019 to the income year commencing on or after three month after the date of Royal Assent of the enabling legislation.
Ten Year Enterprise Tax Plan — targeted amendments to Division 7A	Start date revised from 1 July 2020 to income years commencing on or after the date of Royal Assent of the enabling legislation.
Superannuation — reducing red tape for superannuation funds (exempt current pension income changes)	Start date revised from 1 July 2020 to 1 July 2021

# Key issues for 30 June 2020

## *ATO to review MIT status*

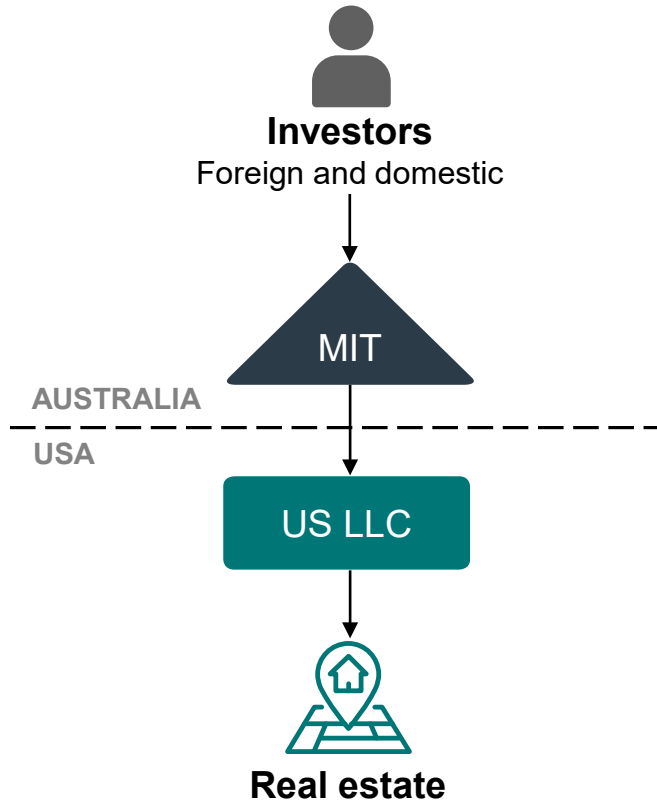
The ATO announced (Tax Institute Forum) that it will be commencing reviews and increasing its scrutiny over the classification of Funds as MITs and AMITs in Q3 and Q4 of 2021.  
This may be delayed due to COVID and resources.



- Capital account election
- Requirement for AMIT classification and benefits of AMIT
- Enables fixed trust for losses (AMIT)
- Enables franking credit flow through (AMIT)
- Reduced withholding tax rates

# Key issues for 30 June 2020

## Foreign hybrid mismatch provisions



Income year	2020	2021
<b>Rental expenses</b>	\$100,000	\$80,000
<b>Rental income</b>	\$80,000	\$130,000
<b>US tax @21%</b>		\$6,300
<b>Outcomes for MIT</b>		
<b>AUS</b>	\$20,000 deductions denied	\$20,000 prior year deductions used <i>No loss rules apply</i>
<b>USA</b> <i>Assume MIT is treated as a corporate entity in US and US LLC is a transparent entity</i>	\$20,000 tax loss	\$20,000 tax loss used  Tax paid on \$30,000 net profit

***ATO taking  
more  
stringent  
views***

## Public trading trust provisions



**Controlling  
underlying  
entities**

***\*\* ATO views on  
negative control***



**Car parking  
operations for  
commercial  
buildings**



**Disposal of  
real estate  
including  
small portions**



**Other income  
derived by  
the Fund**

# Key issues for 30 June 2020

## *Non-concessional MIT withholding rules*

- **Reminder** to review increased withholding tax rate of 30%
- Broader than just stapled arrangements
- **Important to understand** flow through treatment of trading trust income
- **Increased withholding tax rate of 30%**



### *Types of non-concessional MIT withholding tax income*

MIT cross staple arrangement income

MIT trading trust income

MIT agricultural income

MIT residential housing income

# Q&A



## Contact us



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