Changes to Australia's financial services taxation regimes

Investment Manager Regime (IMR)

Foreign funds that invest via an Australian fund manager may be eligible to access IMR concessions in relation to disposal gains and losses (generally not assessable or deductible on disposal of portfolio interests), and can generally disregard certain Australian income tax consequences (e.g. permanent establishment issues).

The concession relies on the fact that the foreign fund is a non-resident of Australia – however the use of an Australian fund manager raises concerns whether by reason of the activities undertaken in Australia the foreign fund could be exposed to a residency issue. The Government will clarify that when a foreign investor invests in Australia through a foreign fund or an independent Australian fund manager, it will be in the same tax position as if had invest directly.

Managed Investment Trusts (MITs) and Attribution Managed Investment Trusts (AMITs)

Investors in MITs no longer able to exclude distributions received in relation to Capital Gains Tax (CGT) concession amounts in recalculation of cost base and CGT event E4 gains

This change responds to industry concerns that potential differences in the CGT outcomes for investors in MITs and AMITs may discourage some MITs from electing into the AMIT regime.

Going forward, investors in MITs will be required to adjust the cost base of their units in the MIT when it distributes an amount claimed to be non-assessable (the CGT concession amount) as a consequence of the offset of a capital loss or net capital loss in certain circumstances, meaning that investors in MITs will no longer be able to exclude the distribution they receive in relation to these non-assessable amounts when calculating their cost base and determining CGT event E4 gains.

MITs with substituted accounting periods eligible to opt into the AMIT regime

Currently, a trust can elect into the AMIT regime for income years starting on or after 1 July 2016, or 1 July 2015 (if the trustee chooses early adoption). However, the current rules do not operate as intended for early balancers.

The Government will ensure that an eligible MIT with an income year starting on a date other than 1 July can opt into the AMIT regime from its first full income year starting on or after 1 July 2015.

Redefining the meaning of fund payment to broadly align the tax outcomes of investing via a MIT with direct investment

- non-TAP capital losses will not be able to be applied against TAP capital gains in working out the determined member components of TAP capital gains for the purposes of calculating the fund payment.
- non-TAP capital losses should not be added back to increase the fund payment amount where they are either offset against non-TAP capital gains or to the extent there are carried forward non-TAP capital losses.
- Carried forward non-TAP capital losses applied in later years against TAP capital gains will be required to be included in the fund payment amount in the later year.
- Carried forward non-TAP capital losses applied in later years against non-TAP capital gains will not be required to be added back to increase the fund payment amount in that later year.

MIT withholding provisions apply to the amount of the fund payment that is attributed to the taxpayer by an AMIT

The Government has proposed that the MIT withholding provisions will be amended to confirm that they apply to the amount attributed not the cash amount distributed.

MIT withholding provisions

The Government will clarify that a deemed payment can arise in circumstances where no fund payment is made for an income year to ensure that the withholding MIT provisions apply appropriately to deemed payments.

Meaning of AMIT amended so that single unitholder widely-held entities can access the AMIT regime

This change will allow a single unitholder widely-held entities to access the AMIT regime. Note it will not extend to allowing single unitholder MITs to be a withholding MIT. This change will also not extend to including platforms, wraps or master trusts (also known as Investor Directed Portfolio Services) in the list of deemed widely-held entities. However, the Government has indicated that it will consult with industry on broadening the eligibility for these widely-held entities to access the concessional tracing rules as part of the Corporate Collective Investment Vehicle public consultation process.

Transitional rules regarding franked distributions

Some trusts ceased to be public trading trusts or corporate unit trusts as part of the AMIT reforms in 2016. Transitional rules apply so these trusts can continue to treat distributions from pre-1 July 2016 income as frankable distributions so that they can use accumulated franking credits.

The transitional rules will be clarified so that franking credits of the trust are not cancelled when it ceases to be a corporate unit trust or public trading trust; franking credits cannot be attached to distributions of post-30 June 2016 income; and in the case of a trust that ceases to be a corporate unit trust, the distribution will retain the character of a unit trust dividend when it is paid to a unit holder.

AMIT Unders and Overs

The Government will amend rounding adjustment and trustee shortfall tax provisions in the income tax law to ensure that the discount capital gains are properly taken into account under the AMIT unders and overs regime.

CGT Event E 10 (nil starting base)

The Government will clarify that CGT event E10 can happen without the need for a cost base reduction in an income year where the cost base of the asset is nil at the start of that income year.

Source: *"KWM | Changes to Australia's financial services taxation regimes", Kwm.com, 2017. [Online]. Available: http://www.kwm.com/en/au/knowledge/insights/tax-changes-australia-financial-services-regime-imr-amit-20170719. [Accessed: 20- Jul- 2017].*

Safeguard Yourself From These Common Investment Scams

The Australian Competition and Consumer Commission (ACCC) is warning the public to watch out for investment scammers who promise great returns but "leave their victims with broken dreams and empty bank accounts."

In the first half of 2017, Australians reported losing over $13m to investment scams, according to the ACCC's Scamwatch website. This makes investment scams the most profitable of all the current scams. "It is likely that losses are much higher as many victims do not report scams or contact other authorities," said ACCC deputy chair Delia Rickard.

Men are nearly twice as likely to be targeted by investment scams and lose more money than women. Additionally, people aged 45 to 64 are more commonly victimised, said the ACCC.

"These scams typically start with a phone call out of the blue. The scammers are sophisticated, convincing and persistent, which is why we sadly see people lose large amounts of money to them. They are also delivered through unsolicited emails, online forums and social media," Rickard said.

Scammers are notorious for using high pressure tactics to sell financial opportunities that are "not to be missed". These opportunities involve high and quick returns for low risks, and need to be acted on quickly or the victim will purportedly miss out.

"Whatever your motive is for the investments you make, do your research and never invest money with someone who has contacted you out of the blue, no matter who they say they are, how much money they promise you or the urgency with which they're trying to make you act," Rickard said. "They seem too good to be true because they are."

Common investment scams

Unsolicited phone calls and emails

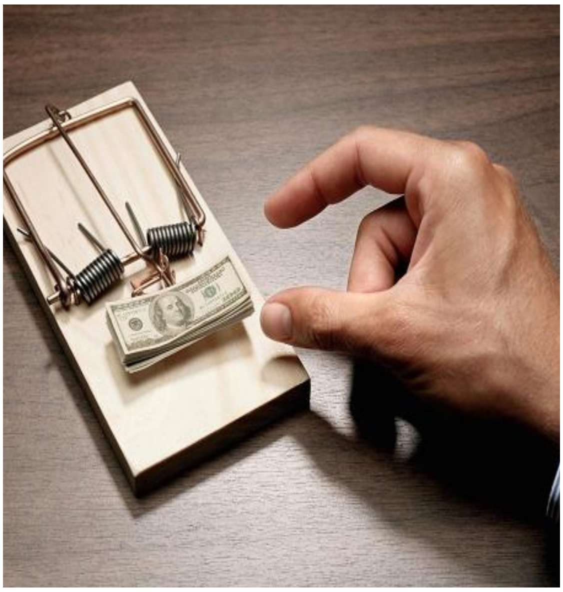
These typically offer victims investment opportunities with high returns. They can involve multiple people who use investment jargon and provide their targets with access to professional-looking websites and documents. "Your initial investment may seem to show promising results quickly but soon your money and the scammer disappear and you have lost everything," the ACCC warns.

Superannuation funds

Via unsolicited calls, scammers will offer to roll their targets' superannuation funds into self-managed funds that will help reduce their taxes and provide great investment opportunities. In reality, they're just stealing their targets' superannuation funds.

How to safeguard yourself

- Hang up or delete all cold calls and emails offering unsolicited advice on investing.
- Visit the Australian Securities and Investments Commission's (ASIC) MoneySmart website to check for companies you shouldn't be dealing with. You should also visit ASIC's professional registers to see if the person you're dealing with has an Australian Financial Services License.
- Block the scammers on your social media accounts so that they can't contact your family and friends.
- Conduct thorough research before proceeding with an investment.
- Never commit to an investment at seminars and always get independent financial advice.



__Source:__ M. Mata, "Safeguard yourself from these common investment scams", Your Investment Property, 2017. [Online]. Available: http://www.yourinvestmentpropertymag.com.au/news/safeguard-yourself-from-these-common-investment-scams-238840.aspx. [Accessed: 20- Jul- 2017].