

# ***LCG 2015/12A1 - Addendum - Attribution Managed Investment Trusts: dividend, interest and royalty withholding***

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# Addendum

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## Draft Law Companion Guideline

### Attribution Managed Investment Trusts: dividend, interest and royalty withholding

This Addendum amends Draft Law Companion Guideline LCG 2015/D12 to account for the *Tax Laws Amendment (New Tax System for Managed Investment Trusts) Act 2016* receiving royal assent on 5 May 2016.

#### LCG 2015/D12 is amended as follows:

##### 1. Page status (all pages)

Omit 'draft only – for comment'; substitute 'legally binding'.

##### 1. First page header and all footers

Omit 'Draft Law Companion Guideline LCG 2015/D12'; substitute 'Law Companion Guideline LCG 2015/12'.

##### 2. Preamble

Omit the preamble; substitute:

#### **Relying on this Guideline**

This Guideline describes how the Commissioner will apply the law as amended by the *Tax Laws Amendment (New Tax System for Managed Investment Trusts) Act 2016*.

If you rely on this Guideline in good faith, you will not have to pay any underpaid tax, penalties or interest in respect of matters it covers if it does not correctly state how a relevant provision applies to you.

##### 3. Table of Contents

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Insert:

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#### **4. Paragraph 1**

- (a) Omit all occurrences of 'draft' from paragraph (including heading).
- (b) Omit footnote 2; substitute:

<sup>2</sup> See Division 12A of Schedule 1 to the *Taxation Administration Act 1953* (TAA). All legislative references in this Guideline are to Schedule 1 to the TAA unless otherwise indicated.

#### **5. Paragraph 2**

- (a) Omit 'draft'.
- (b) Omit 'Draft Law Companion Guideline LCG 2015/D13'; substitute 'Law Companion Guideline LCG 2015/13'.

#### **6. Paragraph 3**

Omit the first two sentences (excluding the dot points); substitute:

This Guideline is a public ruling, effective for those who rely on it in good faith in respect of assessments for income years starting on or after:

#### **7. Paragraph 4**

Omit first sentence; substitute:

The rules in Division 12A ensure the general withholding rules apply appropriately in the context of the attribution taxation regime for AMITs.

#### **8. Footnotes 3**

Omit 'LCG 2015/D13'; substitute 'LCG 2015/13'.

#### **9. Paragraph 5**

Omit 'including in this draft Guideline'; substitute 'which include'.

#### **10. Footnote 6**

Omit 'Draft Law Companion Guideline LCG 2015/D7'; substitute 'Law Companion Guideline LCG 2015/7'.

#### **11. Footnote 7**

Omit 'Draft Law Companion Guideline LCG 2015/D8'; substitute 'Law Companion Guideline LCG 2015/8'.

#### **12. Footnote 8**

Omit 'Draft Law Companion Guideline LCG 2015/D6'; substitute 'Law Companion Guideline LCG 2015/6'.

#### **13. Paragraph 9**

Omit 'draft'.

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**14. Paragraph 10**

After the first sentence; insert:

<sup>8A</sup> As relevantly modified in the case of interest and royalty payments: subsections 12A-35(4) and 12A-40(4).

**15. Paragraph 11**

Omit 'is'; substitute 'are'.

**16. Paragraph 13**

- (a) Omit 'No liability'; substitute 'In respect of the franked dividends, no liability'.
- (b) Omit 'respect of the franked part of the dividend'.

**17. Paragraph 15**

At the end of the last sentence; insert 'made in respect of that member'.

**18. Paragraph 16**

- (a) Omit the paragraph; substitute:

16. An actual payment will be a 'pre-AMMA actual payment' if it is made before the time the deemed payment arises and is related to the same member components<sup>12A</sup>.

16A. A deemed payment arises at the time 'the AMIT gave the first recipient the AMMA statement'<sup>12B</sup>. For these purposes, an AMMA will be taken to have been given to the first recipient at the time the first recipient would be taken to have received notice of the AMMA.

16B. In the scenario where an AMIT purports to make a payment to the recipient on the same date that the AMMA issues, it would generally be expected that the crediting of such a payment would occur prior to notice of the issue of the AMMA having been received by the recipient. Accordingly, for these purposes, the Commissioner will accept that such a payment made in these circumstances is a pre-AMMA actual payment.

<sup>12A</sup> Section 12A-210(2).

<sup>12B</sup> Section 12A-205(2).

**19. Paragraph 21**

At the end of the paragraph; insert:

<sup>12C</sup> As relevantly modified in the case of interest and royalty payments: subsections 12A-35(4) and 12A-40(4).

**20. Paragraph 27**

Omit last two occurrences of 'of'; substitute ', will be'.

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<sup>12A</sup> Section 12A-210(2).

<sup>12B</sup> Section 12A-205(2).

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**21. Paragraph 28**

Omit 'amount(s)'; substitute 'amounts'.

**22. Paragraph 31**

Omit 'withhold'; substitute 'withholding'.

**23. Footnote 20**

Omit 'LCG 2015/D13'; substitute 'LCG 2015/13'.

**24. Paragraph 44**

After 'will'; insert 'itself'.

**25. Paragraph 49, heading**

At the end of the heading; insert:

<sup>20A</sup> Also see Example 15 of LCG 2015/13.

**26. Paragraph 58**

Omit 'holds the'; substitute 'holds'.

**27. Paragraph 64**

Omit 'cover the'; substitute 'the Custodian to cover that'.

**28. Paragraph 70**

After 'DIR payment'; insert 'to a relevant non-resident recipient'.

**29. Paragraph 75**

Before 'Division 6'; insert 'where that entity received the deemed payment in its capacity as the trustee of another trust,'.

**30. Paragraph 76**

Omit the last sentence; substitute:

The trust deed of the Last One Trust defines the income of the trust to be its ordinary income.

**31. Paragraph 78**

(a) After 'trustee'; insert 'pf the Last One Trust'.

(b) After the paragraph; insert:

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**Commissioner of Taxation**  
5 May 2016

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### **32. Paragraph 79**

Omit the paragraph (including heading).

### **33. Legislative references**

Insert:

Tax Laws Amendment (New Tax System for Managed Investment Trusts) Act 2016

### **34. Other references**

Omit the references; substitute:

Law Companion Guideline LCG 2015/6 *Attribution Managed Investment Trusts: character flow-through for AMITs*

Law Companion Guideline LCG 2015/7 *Attribution Managed Investment Trusts: attribution on a 'fair and reasonable' basis*

Law Companion Guideline LCG 2015/8 *Attribution Managed Investment Trusts: the rules for working out trust components - allocation of deductions*

Law Companion Guideline LCG 2015/13 *Attribution Managed Investment Trusts: withholding in respect of 'fund payments'*

### **35. ATO references**

Omit the references.

This Addendum applies on and from 5 May 2016.

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### **Commissioner of Taxation**

5 May 2016

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ATO references

ATOlaw topic(s)

Income tax ~ Trufts ~ Other

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