


# ***LCG 2015/5A2 - Addendum - Attribution Managed Investment Trusts: choice to treat separate classes as separate AMITs***

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# Addendum

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## Draft Law Companion Guideline

### Attribution Managed Investment Trusts: choice to treat separate classes as separate AMITs

This Addendum amends Draft Law Companion Guideline LCG 2015/D5 to finalise it following the *Tax Laws Amendment (New Tax System for Managed Investment Trusts) Act 2016* receiving royal assent on 5 May 2016.

#### LCG 2015/D5 is amended as follows:

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

At the top of all pages; insert:

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Page status: **legally binding**

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

Omit 'Draft Law Companion Guideline LCG 2015/D5'; substitute 'Law Companion Guideline LCG 2015/5'.

##### 3. 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.

##### 4. Table of Contents

Omit:

What this draft Guideline is about	1
Schedule 2F of the <i>Income Tax Assessment Act 1936</i>	30
TOFA elections	33
No requirement to lodge multiple tax returns or AIRs	34
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Insert:

What this Guideline is about	1
Schedule 2F to the <i>Income Tax Assessment Act 1936</i> (ITAA 1936)	30
<i>Example 1A: test period</i>	32A
Taxation of Financial Arrangements (TOFA) elections	33
No requirement to lodge multiple tax returns or Annual Investment Income Reports (AIIRs)	34

#### **5. Paragraph 1**

- (a) Omit all occurrences of 'draft' from paragraph (including heading).
- (b) Omit footnote 1; substitute:

<sup>1</sup> All legislative references in this Guideline are to the ITAA 1997, unless otherwise indicated.

#### **6. Paragraph 2**

Omit 'draft'.

#### **7. 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:

#### **8. Paragraph 6**

Omit 'the Bill'; substitute 'the Tax Laws Amendment (New Tax System for Managed Investment Trusts) Bill 2015 (the Explanatory Memorandum)'.

#### **9. Paragraph 7**

After the paragraph; insert:

7A. Provided that there are at least two classes of interests within an income year, the choice can apply in respect of that year. There is no requirement that the two classes must have been in existence for the entire income year in order to make the choice. The part year status will, however, be relevant in determining the apportionment of tax attributes required by subsection 276-20(3) and working out the determined trust components for each class.

#### **10. Paragraph 12**

Omit 'draft'.

#### **11. Paragraph 14**

Omit 'to the Bill'.

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**12. Paragraph 26**

Omit 'draft'.

**13. Paragraph 30**

- (a) At the end of the heading; insert '(ITAA 1936)'.
- (b) Omit '*Income Tax Assessment Act 1936* (ITAA 1936)'; substitute 'ITAA 1936'.

**14. Paragraph 31**

Omit 'in Schedule 2F'; substitute 'of Schedule 2F to the ITAA 1936'.

**15. Paragraph 32**

After the paragraph; insert:

***Example 1A: test period***

32A. *A trust with two separate classes of members incurs a tax loss in year 1. In year 2, the trustee elects for the trust to be an AMIT and makes a separate class election. The carried forward tax loss is allocated between the separate classes fairly and reasonably. To deduct the losses, the separate class AMITs must satisfy the tests in Schedule 2F to the ITAA 1936. These tests apply in relation to a 'test period'. In this example, the test period starts before the trust and separate class elections took effect. Under subsection 276-20(2), the separate classes are treated as separate AMITs from the start of year 2. For the purpose of applying the tests in Schedule 2F, the Commissioner will treat the separate classes as separate AMITs from the start of year 1.*

**16. Paragraph 33**

Omit the heading; substitute 'Taxation of Financial Arrangements (TOFA) elections'.

**17. Paragraph 34**

- (a) Omit the heading; substitute 'No requirement to lodge multiple tax returns or Annual Investment Income Reports (AIIRs)'.
- (b) Omit 'Annual Investment Income Report (AIIR)'; substitute 'AIIR'.

**18. Paragraph 36**

At the end of the last sentence; insert 'purposes'.

**19. Paragraph 42**

- (a) After 'NZD Class'; insert ', in respect of a 35% proportion'.
- (b) After 'are'; insert 'only'.

**20. Paragraph 43**

At the end of the paragraph; insert:

<sup>12A</sup> It has been assumed there were no unusually large issues or redemptions of units during the 2014-15 income year. If unusually large issues or redemptions occur, it may be necessary to have regard to such issues or redemptions in allocating assessable income and allowable deductions between the two classes.

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**21. Footnote 13**

Omit the footnote, insert:

<sup>13</sup> See Law Companion Guideline LCG 2015/7 *Attribution Managed Investment Trusts: attribution on a 'fair and reasonable' basis.*

**22. Paragraph 54**

After 'Part IVA'; insert 'of the ITAA 1936'.

**23. Paragraph 55**

(a) After 'AMIT distributions'; insert 'and the Commissioner would consider the application of Part IVA of the ITAA 1936'.

(b) After the paragraph; insert:

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**Commissioner of Taxation**  
5 May 2016

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**24. Paragraphs 56**

Omit the paragraph (including heading).

**25. Legislative references**

Insert:

ITAA 1997 276-210(3)

ITAA 1997 276-210(4)

ITAA 1997 276-255

ITAA 1936 Pt IVA

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

**26. Related Rulings/Determinations**

Insert:

Related Rulings/Determinations	Law Companion Guideline LCG 2015/7 <i>Attribution Managed Investment Trusts: attribution on a 'fair and reasonable' basis</i>
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**27. Other references**

Omit the references; substitute:

[Explanatory Memorandum](#) to the Tax Laws Amendment (New Tax System for Managed Investment Trusts) Bill 2015

This Addendum applies on and from 5 May 2016.

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**Commissioner of Taxation**

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5 May 2016

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ATO references

ATOlaw topic(s)

Income tax ~~ Trusts ~~ Other

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