

# ***LCG 2015/6A1 - Addendum - Attribution Managed Investment Trusts: character flow through for AMITs***

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# Addendum

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## Draft Law Companion Guideline

### Attribution Managed Investment Trusts: character flow-through for AMITs

This Addendum amends Draft Law Companion Guideline LCG 2015/D6 being finalised by the *Tax Laws Amendment (New Tax System for Managed Investment Trusts) Act 2016* receiving royal assent on 5 May 2016.

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

##### 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
<b>Your comments</b>	<b>48</b>

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Insert:

What this Guideline is about	1
<i>Example 4A: franking credit gross-up offset by deductions</i>	28A

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

Omit 'draft' from heading.

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

Omit 'draft'.

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

- (a) 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:
- (b) After 'trustee' in the second dot point; insert 'of the AMIT'.

#### **8. Footnote 1**

Omit the footnote; substitute:

<sup>1</sup> Contained in Division 276 of the *Income Tax Assessment Act 1997* (ITAA 1997). All legislative references in this Guideline are to the ITAA 1997 unless otherwise indicated.

#### **9. Footnote 2**

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

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

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

#### **11. Paragraph 19**

Omit 'draft'.

#### **12. Paragraph 22**

- (a) Omit all occurrences of 'capital gains'; substitute 'income'.
- (b) Omit 'subsection 6-10(5)'; substitute 'subsection 6-5(3)'.

#### **13. Paragraph 25**

- (a) Omit ', and'; substitute '.The member'.
- (b) After 'of the distribution'; insert:

<sup>8A</sup> See paragraph 29 of this Guideline.

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- (c) After 'disentitled'; insert:

<sup>8B</sup> See paragraphs 30-33 of this Guideline.

#### 14. Paragraph 28

- (a) At the end of the paragraph; insert:

<sup>10A</sup> Subsection 276-85(6) applies if the member (not being a member in the capacity of trustee of another trust) has a determined member component of the character of assessable income under subsection 207-20(1). Where the AMIT is itself a beneficiary of another AMIT or non-AMIT trust which receives the franked distribution, the character of the trust component to the AMIT will be of a franked distribution and franking offset. Any franking credit gross up component attributable to this distribution will be of a character of assessable income under subsection 207-20(1).

- (b) After the paragraph; insert:

#### **Example 4A: franking credit gross-up offset by deductions**

28A. *The trustee of an AMIT receives a franked distribution of \$70,000 from a company. The franking credit on the distribution is \$30,000. In working out the trust components of amounts having the character of a franked distribution and franking credit gross up, the trustee allocates deductions against these two amounts<sup>10B</sup>. After subtracting the deductions, the trust components are \$63,000 and \$27,000 respectively. The trustee attributes \$6,300 (franked distribution) and \$2,700 (franking credit gross-up) to Member A. While the franking credit gross-up is \$2,700, the potential tax offset available to member A is \$3,000, representing the member's share of the franking credits on the distribution. The availability of the tax offset would depend on whether the tax offset conditions in Division 207 have been satisfied, such as the qualified person requirement.<sup>10C</sup>*

<sup>10B</sup> Whether deductions are properly allocable against assessable income having a character of franked distributions and franking credits on the distribution must be determined by reference to the facts and circumstances. Guidelines relating to the allocation of deductions are contained in Law Companion Guideline LCG 2015/8 *Attribution Managed Investment Trusts: the rules for working out trust components – allocation of deductions*.

<sup>10C</sup> See paragraphs 29 to 33 of this Guideline.

#### 15. Paragraph 34

Omit 'draft'.

#### 16. Paragraph 38

After 'paid)'; insert:

<sup>13A</sup> Determined trust components with a character of foreign source income on which no foreign tax is paid also have a character of foreign source income. This may be relevant to the calculation of a foreign income tax offset limit under section 770-75.

#### 17. Paragraph 47

After the paragraph; insert:

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<sup>10B</sup> Whether deductions are properly allocable against assessable income having a character of franked distributions and franking credits on the distribution must be determined by reference to the facts and circumstances. Guidelines relating to the allocation of deductions are contained in Law Companion Guideline LCG 2015/8 *Attribution Managed Investment Trusts: the rules for working out trust components – allocation of deductions*.

<sup>10C</sup> See paragraphs 29 to 33 of this Guideline.

**18. Paragraph 48**

Omit the paragraph (including heading).

**19. Legislative references**

Omit:

ITAA 1997 6-10(5)  
ITAA 1997 Subdiv 207-F  
ITAA 1997 276-80(3)(d)

Insert:

ITAA 1997 6-5(3)  
ITAA 1997 Subdiv 207-F  
ITAA 1997 770-75  
Tax Laws Amendment (New Tax System for Managed Investment Trusts) Act 2016

**20. 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> Law Companion Guideline LCG 2015/8 <i>Attribution Managed Investment Trusts: the rules for working out trust components – allocation of deductions</i>
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**21. Other references**

Omit the references; substitute:

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

**22. ATO references**

Omit the references.

This Addendum applies on and from 5 May 2016.

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