


LCG 2015/D5A1 - Addendum - Attribution Managed Investment Trusts: choice to treat separate classes as separate AMITs

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Addendum

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 outline the Commissioner's intention to monitor contrived arrangements which seek to obtain tax benefits by creating a separate class(es) which would not otherwise qualify as an Attributed Managed Investment Trust.

LCG 2015/D5 is amended as follows:

1. Page status (all pages)

At the top of all pages; insert:

Page status: **draft only – for comment**

2. Table of Contents

Omit:

Your comments	54
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Insert:

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3. Paragraph 53

After the paragraph; insert:

Monitoring contrived arrangements

54. The ATO will monitor the use of contrived arrangements which seek to obtain tax benefits by creating a separate class(es) which would not otherwise qualify as an AMIT. For example, a class comprised of a single member may be “bolted-on” to an existing AMIT or multi-class AMIT to confer separate AMIT status on the single member class without objectively justifiable commercial reasons. Depending on all of the relevant facts and circumstances, the ATO may consider applying Part IVA to such arrangements. The ATO will also report to Treasury the nature and frequency of such arrangements that it becomes aware of.

Example 6: contrived arrangements

55. An individual foreign investor plans to purchase taxable Australian property (TAP). Any gain on the future sale would be subject to tax on an assessment basis at the investor's marginal tax rate. The investor approaches an existing AMIT, which creates a separate class for the investor and their TAP. Having regard to all of the relevant facts and circumstances, the sole or dominant purpose of the arrangement is to obtain the benefit of concessional withholding tax rates applicable to AMIT distributions.

4. Paragraph 54

Renumber paragraph 54 to 56.

Commissioner of Taxation

23 March 2016

ATO references

ATOlaw topic(s)	Income tax ~~ Trusts ~~ Other
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