IT 2497 - Income tax : substituted accounting periods : large investment or property (unit) trusts

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TAXATION RULING NO. IT 2497

INCOME TAX : SUBSTITUTED ACCOUNTING PERIODS : LARGE INVESTMENT OR PROPERTY (UNIT) TRUSTS

F.O.I. EMBARGO: May be released

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REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1010904	SUBSTITUTED ACCOUNTING PERIODS	18(1)
	UNIT TRUSTS	DIVISION 6

OTHER RULINGS ON THIS TOPIC : IT 2360

PREAMBLE This Ruling discusses the treatment to be given to applications by large investment or property trusts, which may have many thousands of investors/beneficiaries generally referred to as unit holders, for leave to adopt accounting periods ending on some date other than 30 June each year.

2. A number of representations have been made on behalf of trustees of trusts of this kind seeking leave under sub-section 18(1) of the Income Tax Assessment Act to balance on dates between March and May in lieu of the subsequent 30 June. Reasons given in support of the applications included:-

- if all trusts under a trustee's management were to balance on the same date, the volume of work required of managers and trustees to enable them to discharge their responsibilities under the respective trust deeds would be unmanageable;
- the fact that the trusts have many thousands of unit holders;
- it is often not practicable to issue advices to unit holders detailing the amount of income to which they are presently entitled at 30 June until close to 31 August of the same calendar year;
- this could cause delays in the lodgement of income tax returns by unit holders;
- alternatively, the unit holders' returns may have already been lodged without disclosure of entitlements because of lack of notification from the trusts and assessments issued;
- assessments would need to be amended to include the correct amount of taxable income, thus causing

administrative costs;

- the fact that many unit holders return their income on a receipts basis. That is, trust distributions actually received in, say, August, being income the unit holders were presently entitled to as at the preceeding 30 June, are being disclosed in the income tax returns for the year in which the amounts are actually received rather than in returns for the year of income in which the unit holders are presently entitled;

- the fact that these factors result in delays in the collection of income tax.

3. The applications assert that:-

- if leave were to be granted to large property or investment trusts to balance on, say, 30 April in lieu of the subsequent 30 June, the managers of those trusts would have sufficient time to arrange for advice to be given to unit holders of their entitlement before 30 June;

- this would mean that the lodgment of returns and the issue of assessments would not be delayed or disrupted and the likelihood of the unit holders returning the income in the correct year would be increased.

RULING

4. Only in the most exceptional circumstances will leave be granted to trusts to adopt substituted accounting periods. Paragraph 10 of Taxation Ruling No. IT 2360 states that it is expected that the circumstances where leave is granted to adopt an accounting period other than 30 June will be rare. That Ruling stresses that there must be a substantial business need for making the change and this means that there must be some factor or element peculiar to the particular business or class of business which makes a 30 June balance date wholly inappropriate or impractical as a measure for determining taxable income. Paragraph 13 of that Ruling states that convenience of the taxpayer is not sufficient reason for a change in an accounting period.

5. Examples of what constitutes a substantial business need are given in the earlier Taxation Ruling. Those examples are:-

- where the taking of stock on hand at 30 June is a practical impossibility due to, say, the extent of the cattle season in the far north of Australia;

- where, by the nature of a business, the income from the business is received up front before the incurring of the bulk of the expenditure and a 30 June balance date would seriously distort the calculation of taxable income; or

- where leave is necessary to ensure that all companies

in a group balance on the same date.

6. The reasons given by the large investment or property trusts to support their applications for leave under sub-section 18(1) centre on the proposition that the balance dates sought to be adopted will enable the trusts to issue advices of income entitlements to unit holders before 30 June. This is not considered to amount to the sort of real business need envisaged in the earlier Ruling. It is not a matter that makes a 30 June balance wholly inappropriate or impracticable as a measure for determining net income of the trusts. It is simply a matter of giving trustees and managers of the trusts concerned more time to issue to unit holders advice of income entitlements. These reasons are not viewed as sufficient to warrant the granting of leave under sub-section 18(1).

7. There would be a substantial impact on the revenue if substituted accounting periods were to be granted generally to large investment or property trusts. This is because if, say, a balance date of 30 April in lieu of the subsequent 30 June were granted, there would be a continual deferral of tax on the income of the trust derived during the period between 30 April and 30 June. This, of course, is a factor which must be taken into account in the general administration of the income tax law.

8. Where large investment or property trusts have already been granted a substituted accounting period those trusts will not be required to revert to a 30 June balance date. They will be allowed to continue to balance on the substituted accounting period date unless any circumstances arise which warrant a change being made.

9. There may be cases where large investment or property trusts have been formed before the date of issue of this Ruling and have commenced to operate in anticipation of a substituted accounting period being approved but applications for leave under sub-section 18(1) have not been made or the applications have been made but have not been approved. This situation does not constitute sufficient reason for granting leave to adopt substituted accounting periods. Trusts which have been operating in these circumstances are required to lodge on a 30 June basis. However, it is not intended that trusts which have balanced on a date prior to 30 June should now prepare accounts to 30 June for part years. Returns based on non-approved balanced dates will be accepted for years up to and including those in lieu of the year ended 30 June 1988 provided the adoption of a 30 June balance date is implemented by 30 June 1989.

10. It is understood that some unit holders have been returning income from these trusts in the year of receipt while others have returned in the year of entitlement. The former will need to be brought into line with the latter. Consequently, for the year of income ending 30 June 1989 and all future years strict compliance under Division 6 of Part III of the Act will be required. That is, unit holders will be required to return as assessable income in the 1989 and future years of income all net trust income to which they are presently entitled in the

particular year. For example, if a trust balances on 30 June, unit holders will be required to disclose in their 1989 income tax return all net trust income which they are presently entitled to as at 30 June 1989. This may of course include distributions received after that date. Trustees and managers of these trusts will therefore need to make adequate preparations so as to avoid, amongst other things, their unit holders being open to the imposition of additional tax for not disclosing their correct assessable income.

COMMISSIONER OF TAXATION
6 October 1988