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AMIT Q&A

What is an attribution managed investment trust (AMIT)?

An AMIT is a managed investment trust that has chosen to apply the new AMIT regime.

Managed investment trusts include most listed trusts and other widely held trusts.

What is the purpose of the AMIT regime?

Prior to the commencement of the AMIT regime, family trusts and large managed investment trusts were subject to the same set of tax laws. Many aspects of these laws were uncertain and difficult for managed investment trusts to apply in practice and resulted in unnecessary administration costs.

The AMIT regime provides a specific set of rules that are intended to provide greater flexibility in the operation of AMIT's tax affairs and to reduce administration costs. The AMIT rules also seek to eliminate a number of areas of uncertainty in the existing laws.

Will the AMIT regime change the way in which MPT's income is taxed?

The AMIT regime will not change the overall manner in which MPT's income is taxed. Consistent with the previous trust taxation regime:

- MPT itself will not be subject to tax;
- an Australian resident MPT unitholder will include their share of MPT's taxable income in their assessable income for the year to which the income relates (not the year in which it is received); and
- withholding tax will be deducted from distributions to non-resident MPT unitholders.

Will the AMIT regime change the way in which I fill out my tax return?

No, you will include the different components of your share of MPT's taxable income in the same tax return labels as under the previous trust taxation regime.

What tax changes will occur to unitholders under the AMIT regime?

There are two key changes resulting from the commencement of the AMIT regime. These are:

- the way in which an AMIT's taxable income can be allocated to Unitholders under the tax legislation; and
- the calculation of adjustments to a unitholders' cost base in their Units.

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Allocation of taxable income

Under the previous trust tax regime the taxable income of a trust was allocated to Unitholders who had a "present entitlement" to the income of the trust before the end of year. A present entitlement is generally created when the trustee makes a determination of the trusts income and resolves to distribute this to the Unitholders. Under the tax rules the unitholders would then be allocated a share of the taxable income of the trust in proportion to their present entitlement to the income distributed.

Under the AMIT regime the trustee must "attribute" the taxable income of the trust to its Unitholders. The attribution must be on a fair and reasonable basis and any taxable income that is not attributed to unitholders will instead be taxable to the trustee. Under the AMIT regime it will become possible to attribute the taxable income of the trust to Unitholders without the need to make a distribution of income if the trust constitution permits this.

In practice, MPT will continue to attribute the components of its taxable income to Unitholders in the same manner as under the previous trust taxation regime – that is, in proportion to the cash distributed to each Unitholder in respect of the relevant year.

Cost base changes

The previous taxation regime provided for decreasing but not increasing cost base adjustments. Decreasing cost base adjustments are typically required when a Unitholders share of the trusts taxable income is less than the distribution paid by the trust (commonly referred to as Tax Deferred Income). The new AMIT regime will retain this decreasing cost base adjustment requirement.

The new AMIT regime provides unitholders an increase to the cost base of their units in a circumstance where the taxable income attributed from the trust exceeds the cash distribution. The increase to cost base eliminates the possibility of double taxation which can occur where a trust has attributed taxable income to a unitholder but has re-invested all or part of those taxable earnings and the unitholder subsequently disposes of their unitholding. In this circumstance the unitholder would make a taxable gain on disposal of the unitholding that represents the undistributed profits but would have also reported attributed taxable income as notified to them by the trust. Allowing a unitholder an increase in their cost base in this circumstance would prevent this outcome.
Importantly, Unitholders will also receive an increase to their cost base for any discounted capital gain component (the CGT Concession Amount) that is not fully distributed by the trust. CGT Concession amounts are not subject to tax of a resident individual unitholder if distributed but would indirectly become taxable if a unitholder disposed of their unitholding which contained an undistributed CGT Concession Amount. Allowing Unitholders an increase in cost base in this circumstance effectively preserves the concessional tax treatment of this capital gain amount.
The cost base of the Units can therefore go up or down under the AMIT regime.

Generally, these cost base adjustments do not affect the income amounts included in a Unitholders' tax return or prevent Unitholders applying the CGT discount to their share of MPT's net capital gains. The general exception to this is where any Unitholder has a decreasing cost base adjustment that causes their cost base to fall below $0. In this circumstance a capital gain would arise on the shortfall.

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When does the AMIT regime start?

Managed investment trusts can choose to be AMITs with effect from the year ended 30 June 2016 or any later year.

The choice to be an AMIT is irrevocable.

MPT first elected to become an AMIT for the year ended 30 June 2016. MPT will be an AMIT for all subsequent years as the election is irrevocable.

Why did MPT choose to be an AMIT for the year ended 30 June 2016?

MPT made substantial capital gains from the disposal of assets in the year ended 30 June 2016. The taxable income of MPT before the application of the CGT discount was substantially higher than the total cash distributed by MPT for that year. Electing into the AMIT regime for 2016 gave Unitholders an increase in the cost base of their Units to reflect the undistributed capital gains which would be beneficial to Unitholders if they subsequently decided to sell their unit holding.

Will the AMIT regime affect MPT's distribution policy?

No. There are no plans to change the MPT distribution policy as a consequence of entering the AMIT regime.

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