


LCG 2015/D11A1 - Addendum - Attribution Managed Investment Trusts: annual cost base adjustments for units in an AMIT and associated transitional rules

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Addendum

Draft Law Companion Guideline

Attribution Managed Investment Trusts: annual cost base adjustments for units in an AMIT and associated transitional rules

This Addendum amends Draft Law Companion Guideline LCG 2015/D11 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/D11 is amended as follows:

1. Page status (all pages)

At the top of all pages; insert:

Page status: **legally binding**

2. First page header and all footers

Omit 'Draft Law Companion Guideline LCG 2015/D11'; substitute 'Law Companion Guideline LCG 2015/11'.

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.

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5. Paragraph 1

- (a) Omit all occurrences of 'draft' from paragraph (including heading).
- (b) After '(AMITs)'; insert a comma.
- (c) Omit first occurrence of 'and'.
- (d) Omit footnote 1; substitute:

¹ An AMIT is a managed investment trust that has elected in to the attribution regime for the taxation of MITs 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.

6. Paragraph 2

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 relevant payments made on or after 1 July 2011 from a trust that becomes an AMIT and for assessments for income years starting on or after:

7. Paragraph 3

- (a) Omit 'apply to'; substitute 'apply in respect of'.
- (b) Omit last sentence; substitute:

Sections 104-107B to 104-107E, which relate to CGT event E10, provide for both downwards and upwards adjustments to the cost base of interests in AMITs. This is in contrast to CGT event E4, which only provides for downwards adjustments to the cost base of the trust interests in respect of which it applies.

8. Paragraphs 5, 6 & 16

Omit all occurrences of 'draft'.

9. Paragraph 9

- (a) Omit 'would otherwise be'; substitute 'may otherwise also form'.
- (b) After 'capital loss'; insert 'on any disposal of that interest prior to payment or actual distribution in respect of the attributed amounts'.

10. Paragraph 12

After 'the cost base'; insert 'of the member's interest in the AMIT'.

11. Paragraph 13

- (a) Omit the first 'The'; substitute 'In summary, the'.
- (b) Omit 'the relevant' in the first dot point; substitute 'a relevant'.
- (c) After 'AMIT is' in the second dot point; insert 'effectively'.
- (d) After 'cost base is' in the third dot point; insert 'effectively'.
- (e) After 'capital gains' in the third dot point; insert:

^{11A} Including any relevant discount component: subsection 276-85(4).

12. Paragraph 14

After 'may'; insert 'arguably'.

13. Paragraph 16

- (a) After 'To'; insert 'further'.
- (b) Omit 'section 276-750T'; substitute 'section 276-750'.
- (c) After 'these'; insert 'new'.

14. Paragraph 17

- (a) After 'sections 104-107B'; insert '(which provides for annual cost base adjustments for capital gains tax purposes)'.
- (b) After '104-107A'; insert '(which provides for a capital gain to arise if the relevant cost base would otherwise be reduced below nil)'.
- (c) Omit '. The'; substitute 'and the inclusion of an amount in assessable income where that cost would otherwise be reduced below nil. As with the AMIT cost base adjustment rules, the'.

15. Paragraph 19

Omit from the heading 'section 276-750T'; substitute 'section 276-750'.

16. Footnote 16

Omit '(3)'; substitute '(3)'.

17. Paragraph 20

Omit the paragraph; substitute:

20. This rule is designed to ensure that TDDs are taken into account under the relevant cost base adjustment rules, rather than being taxed as ordinary income at the time of the distribution, unless the member has already returned the distribution as assessable.

18. Paragraph 21

After 'retrospectively, '; insert 'on its terms'.

19. Paragraph 23

- (a) Omit from the heading 'section 276-755T'; substitute 'section 276-755'.
- (b) Omit 'Section 276-755T of the transitional provisions'; substitute 'Section 276-755 of the IT(TP)A 1997'.

20. Paragraph 24

- (a) After 'they'; insert 'must be'.
- (b) Omit 'must be' from the first dot point.

21. Paragraph 26

Omit 'sections 276-750 and 276-755T'; substitute 'sections 276-750 and 276-755 of the IT(TP)A 1997'.

22. Paragraph 27

Omit 'sections 276-750 and 276-755T'; substitute 'sections 276-750 and 276-755 of the IT(TP)A 1997 effectively'.

23. Paragraph 28

Omit 'it' from the last sentence; substitute 'the MIT'.

24. Paragraph 29

Omit 'holds'; substitute 'held and continues to hold'.

25. Paragraph 31

- (a) After 'X Co' in the last dot point; insert 'had already'.
- (b) Omit 'they would not be re-characterised as TDDs, and' from the last dot point.
- (c) After the paragraph; insert:

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26. Paragraph 32

Omit the paragraph (including heading).

27. ATOLaw topic(s)

Insert:

Income tax ~~ Capital gains tax ~~ CGT events ~~ CGT events E1 to E10 – trusts

28. Legislative references

Insert:

IT(TP)A 1997 Subdiv 276–U

29. Other references

Insert:

Other references	ATO ID 2011/58
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This Addendum applies on and from 5 May 2016.

Commissioner of Taxation

5 May 2016

ATO references

ATOLaw topic(s)

Income tax ~ Truſts ~ Other

Income tax ~ Capital gains tax ~ CGT events ~ CGT events
E1 to E10 – truſts

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