AUSTRALIAN LISTED INVESTMENT COMPANIES ASSOCIATION

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The Board of Taxation
C/- The Treasury
Langton Crescent
CANBERRA ACT 2600

Dear Sir,

REVIEW OF THE TAX ARRANGEMENTS APPLYING TO MANAGED INVESTMENT TRUSTS

I am writing on behalf of the Australian Listed Investment Companies Association ("ALICA") in response to the invitation to lodge submissions which was included in the Board of Taxation Discussion Paper of October 2008.

ALICA is an informal organisation of a number of investment companies listed on the Australian Stock Exchange. Our member companies invest their shareholders' funds primarily in a portfolio of operating companies listed on the Stock Exchange.

The ALICA members have a long term investment time horizon. Common characteristics of their investment strategies include:

- The holding and maintenance of an investment portfolio over the long term with a view to the generation of dividend income and the on-payment of net dividend income to shareholders;
- A focus on the generation of return through the long term earning capacity of the companies in which they invest, and from the receipt of a growing stream of dividends over the long term;
- The raising of capital to rebalance portfolios which in turn reduces the occasions on which shares are sold;
- A low level of portfolio turnover usually as a result of takeovers and mergers or consistent poor performance.

Listed investment companies are one of the oldest forms of collective investment vehicles. The majority of the ALICA members have been in existence for more than 60 years and in total they represent in excess of 188,000 shareholders.

The ALICA members provide investors with a cost effective alternative to Managed Investment Trusts (MITs).

This submission is in relation to the issues and questions identified in Chapter 7: Capital versus revenue account treatment of gains and losses made on disposal of investment assets by MITs.

Q7.1 (a)
It would appear that the case law principles described in paragraphs 7.6 and 7.7 are not applied as rigorously to MITs as they are to companies and in particular LICs. In practice we note that many MITs treat all gains on sale of investments as capital gains irrespective of the level of turnover in the investments of the MIT.

Q7.1(b)
The ALICA members consider that there is no significant compliance costs incurred to distinguish between the capital and revenue treatment on disposal of investments. However this is primarily due to the ALICA members' long term, low turnover investment style. Managed Investment Trusts with significant turnover would incur much higher compliance costs.

Q7.1(c)
A statutory rule that treats realised gains on investments as being on capital account, such as applies to superannuation funds would provide certainty in the treatment of gains and avoid the doubts that arise from the interpretation of the principles of the case law.

This approach, consistently applied to all bona fide collective investment vehicles, would ensure that no investor in any of these vehicles is disadvantaged.

This would enable the collective investment vehicle to make distributions of the capital gains without concern that the appropriate tax treatment has been applied.

It is noted that any statutory rule treating gains and losses made by collective investment vehicles as being on revenue account could reasonably be expected to result in certain investors (such as superannuation funds and individuals) bypassing collective investment vehicles in favour of direct investment.

This is contrary to Policy Principle 1 as enunciated in the Paper at 1.7: *The tax treatment for trust beneficiaries who derive income from the trust should largely replicate the tax treatment for taxpayers as if they had derived the income directly.*

Similarly, it is submitted that certain investors in LICs (such as superannuation funds and individuals) should be able to enjoy capital treatment whether they invest indirectly via LICs or directly into investment assets.

Q7.1(d)
This treatment should apply to all collective investment vehicles.

Q7.1 (e)
We recommend that the statutory capital rules that apply to superannuation funds should apply to all bona fide collective investment vehicles.

Q7.1(f)
All bona fide collective investment vehicles, including LICs, should benefit from the clarification of the capital or revenue treatment of gains. Investors who choose to invest through low cost structures such as those provided by the members of ALICA should not be disadvantaged when compared to those who elect to invest through managed investment trusts.

Q7.1(g)
We consider the option of a statutory rule which characterises gains and losses to particular investors as being on capital account to be less desirable as compared to a statutory rule which applies at the collective investment vehicle level. Characterisation at the investor level could reasonably be expected to result in significant tracing compliance issues, particularly where amounts flow via intermediaries who do not qualify for capital treatment.

Q7.1(h)
All collective investment vehicles should be treated equally.

Please do not hesitate to contact me if you require any further details or would like us to amplify this submission.

We thank you for the opportunity to submit our views on what is an extremely important topic that affects many Australian investors.

Yours faithfully

FGooch

Frank Gooch
Chairman
ALICA