

# EXPOSURE DRAFT

## EXPOSURE DRAFT

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Inserts for

### **Treasury Laws Amendment (Corporate Collective Investment Vehicle) Bill 2018: TSY/45/032 (Tax treatment)**

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#### **Commencement information**

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<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Schedules 1 to 7	The first 1 January, 1 April, 1 July or 1 October to occur after the day this Act receives the Royal Assent.	
2. Schedule 8	The later of: (a) immediately after the commencement of the provisions covered by table item 1; and (b) immediately after the commencement of Schedule 1 to the <i>Treasury Laws Amendment (Making Sure Multinationals Pay Their Fair Share of Tax in Australia and Other Measures) Act 2018</i> .  However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.	
3. Schedules 9 to 11	The first 1 January, 1 April, 1 July or 1 October to occur after the day this Act receives the Royal Assent.	
4. Schedule 12, items 1 to 10	The later of: (a) immediately after the commencement of the provisions covered by table item 1; and (b) immediately after the commencement of Schedule 1 to the <i>Treasury Laws Amendment (2018 Measures No. 5) Act</i>	

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<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
	<i>2018.</i> However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.	
5. Schedule 12, item 11	The first 1 January, 1 April, 1 July or 1 October to occur after the day this Act receives the Royal Assent. However, the provisions do not commence at all if Schedule 1 to the <i>Treasury Laws Amendment (2018 Measures No. 5) Act 2018</i> commences before that day.	
6. Schedule 12, items 12 to 14	The later of: (a) immediately after the commencement of the provisions covered by table item 1; and (b) immediately after the commencement of Schedule 1 to the <i>Treasury Laws Amendment (2018 Measures No. 5) Act 2018</i> . However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.	

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## Schedule 1—Attribution sub-funds

### *Income Tax Assessment Act 1997*

#### **1 Section 276-20**

Repeal the section, substitute:

#### **Attribution sub-funds**

##### **276-20 Meaning of *attribution sub-fund***

- (1) A \*sub-fund of a \*CCIV is an *attribution sub-fund* of the CCIV for an income year if:
- (a) the sub-fund satisfies the requirements under subsection (2) in relation to the income year; and
  - (b) the sub-fund satisfies the trading business restrictions under section 276-26 in relation to the income year; and
  - (c) the CCIV is an Australian resident during the whole of the income year; and
  - (d) the sub-fund is not an \*excluded sub-fund.
- (2) The \*sub-fund satisfies the requirements of this subsection if:
- (a) both of the following apply to the sub-fund:
    - (i) at the time of the first \*fund payment from the sub-fund in relation to the income year, the sub-fund satisfies the widely-held requirements under section 276-22 in relation to the income year;
    - (ii) the sub-fund satisfies the closely-held restrictions under section 276-24 in relation to the income year; or
  - (b) the sub-fund does not have during the income year any \*member that is not any of the following:
    - (i) a \*CCIV;
    - (ii) a \*managed investment trust in relation to the income year;
    - (iii) an entity that is covered by subsection 275-20(4) (other than an entity mentioned in paragraph 275-20(4)(f)).
- (3) A \*sub-fund of a \*CCIV is also an *attribution sub-fund* of the CCIV for an income year if:

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- 1 (a) the sub-fund is covered under section 276-30 in relation to  
2 the income year (temporary circumstances outside the control  
3 of the CCIV); and  
4 (b) the CCIV is an Australian resident during the whole of the  
5 income year; and  
6 (c) the sub-fund is not an \*excluded sub-fund.
- 7 (4) A \*sub-fund of a \*CCIV is an *excluded sub-fund* if:  
8 (a) it was, and has ceased to be, an \*attribution sub-fund of the  
9 CCIV; or  
10 (b) it did not become an attribution sub-fund of the CCIV:  
11 (i) by the end of the income year in which it was  
12 established; or  
13 (ii) within such further period as the Commissioner allows.

## 14 276-22 Widely-held requirements

15 *Which widely-held requirements apply to a sub-fund of a CCIV*

- 16 (1) The widely-held requirements that apply to a \*sub-fund of a \*CCIV  
17 under this section in relation to an income year are:  
18 (a) if, at the time the payment mentioned in  
19 subparagraph 276-20(2)(a)(i) is made, the sub-fund is *not*  
20 covered by subsection (2) of this section—either or both of  
21 the following:  
22 (i) at that time, the sub-fund has at least 50 \*members;  
23 (ii) the sub-fund is covered by subsection (3) of this section  
24 in relation to the income year; or  
25 (b) if, at that time, the sub-fund is covered by subsection (2) of  
26 this section—at that time, the sub-fund has at least 25  
27 members.

28 *Wholesale membership*

- 29 (2) The \*sub-fund is covered by this subsection if, at that time:  
30 (a) the total number of persons each of whom had become a  
31 \*member of the sub-fund because a financial product or a  
32 financial service was provided to, or acquired by, the person  
33 as a retail client (within the meaning of sections 761G and  
34 761GA of the *Corporations Act 2001*) is no more than 20;  
35 and

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1 (b) the persons mentioned in paragraph (a) have a total \*sub-fund  
2 participation interest in the sub-fund of no more than 10%.

3 *Special case for entities covered by subsection 275-20(4)*

4 (3) The \*sub-fund is covered by this subsection in relation to the  
5 income year if:

6 (a) one or more entities covered by subsection 275-20(4) have a  
7 total \*sub-fund participation interest in the sub-fund of more  
8 than 25% at the time mentioned in paragraph (1)(a) of this  
9 section; and

10 (b) at no time in the income year does any other entity (other  
11 than an entity covered by subsection 275-20(4)) have a  
12 sub-fund participation interest in the sub-fund of more than  
13 60%.

14 (4) For the purposes of paragraphs (3)(a) and (b):

15 (a) if:

16 (i) an entity covered by subsection 275-20(4) has a  
17 \*sub-fund participation interest (the **first interest**) in the  
18 \*sub-fund; and

19 (ii) a different entity covered by subsection 275-20(4) also  
20 has a sub-fund participation interest (the **second**  
21 **interest**) in the sub-fund;

22 disregard the second interest to the extent that it arises  
23 through the existence of the first interest; and

24 (b) if an entity that is not a trust has a sub-fund participation  
25 interest in the sub-fund because it holds interests in the  
26 sub-fund indirectly, through a \*chain of trusts—do not treat a  
27 trust in the chain of trusts as having a sub-fund participation  
28 interest in the sub-fund.

29 (5) For the purposes of paragraph (4)(b), treat an entity covered by  
30 subsection 275-20(4) as an entity that is not a trust.

31 (6) For the purposes of paragraphs (3)(a) and (b), apply the rules in  
32 subsection 275-20(7) (including subsection 275-20(8) as if it  
33 applied for the purposes of this subsection).

34 *Members of a sub-fund of an entity*

35 (7) For the purposes of subsection (1) and paragraph (2)(a), determine  
36 the number of \*members of a \*sub-fund of a \*CCIV as follows:

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- 1 (a) first, by applying the rules in subsection (8), identify:  
2 (i) the members of the sub-fund that are not entities  
3 covered by subsection 275-20(4); and  
4 (ii) the members of the sub-fund that are entities covered by  
5 subsection 275-20(4);  
6 (b) next, work out the number of members mentioned in  
7 subparagraph (a)(i);  
8 (c) next:  
9 (i) work out the \*sub-fund participation interest in the  
10 sub-fund of each entity mentioned in  
11 subparagraph (a)(ii); and  
12 (ii) for each of those entities, multiply the total of its  
13 sub-fund participation interest in the sub-fund by 50 and  
14 round the result upwards to the nearest whole number;  
15 and  
16 (iii) work out the total of the results of subparagraph (ii) for  
17 all of those entities;  
18 (d) next, work out the total of the results of paragraphs (b) and  
19 (c).
- 20 (8) The rules are as follows:  
21 (a) if an entity that is not a trust holds interests in the \*sub-fund  
22 indirectly, through a \*chain of trusts:  
23 (i) treat the entity as a \*member of the sub-fund; and  
24 (ii) do not treat a trust in the chain of trusts as a member of  
25 the sub-fund;  
26 (b) do not treat an individual as a member of the sub-fund if:  
27 (i) the sub-fund is covered by subsection (2) of this section  
28 (wholesale membership); and  
29 (ii) the individual did not become a member of the sub-fund  
30 because a financial product or a financial service was  
31 provided to, or acquired by, the individual as a  
32 wholesale client (within the meaning of section 761G of  
33 the *Corporations Act 2001*);  
34 (c) the rules in subsection 275-20(7) (including  
35 subsection 275-20(8) as if it applied for the purposes of this  
36 subsection).
- 37 (9) For the purposes of paragraph (8)(a), treat an entity covered by  
38 subsection 275-20(4) as an entity that is not a trust.
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## 276-24 Closely-held restrictions

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- 2 (1) A \*sub-fund of a \*CCIV satisfies the closely-held restrictions under
- 3 this section in relation to the income year unless, at any time in the
- 4 income year, any of the following situations exist:
- 5 (a) for a sub-fund covered by subsection 276-22(2) (sub-funds
- 6 with wholesale membership)—10 or fewer persons have a
- 7 total \*sub-fund participation interest in the sub-fund of 75%
- 8 or more;
- 9 (b) for a sub-fund not covered by that subsection—20 or fewer
- 10 persons have a total sub-fund participation interest in the
- 11 sub-fund of 75% or more;
- 12 (c) a foreign resident individual has a sub-fund participation
- 13 interest in the sub-fund of 10% or more.
- 14 (2) For the purposes of paragraphs (1)(a) and (b):
- 15 (a) if an entity that is covered by subsection 275-20(4) has a
- 16 \*sub-fund participation interest in the sub-fund—do not treat
- 17 that entity as having a sub-fund participation interest in the
- 18 sub-fund; and
- 19 (b) if an entity that is not a trust has a sub-fund participation
- 20 interest in the sub-fund because it holds interests in the
- 21 sub-fund indirectly, through a \*chain of trusts:
- 22 (i) if that entity is covered by subsection 275-20(4)—do
- 23 not treat it as having a sub-fund participation interest in
- 24 the sub-fund; and
- 25 (ii) do not treat a trust in the chain of trusts as having a
- 26 sub-fund participation interest in the sub-fund.
- 27 (3) For the purposes of paragraph (2)(b), treat an entity covered by
- 28 subsection 275-20(4) as an entity that is not a trust.
- 29 (4) For the purposes of paragraphs (1)(a) and (b), apply the rules in
- 30 subsection 275-20(7) (including subsection 275-20(8) as if it
- 31 applied for the purposes of this subsection).

## 276-26 Trading business restrictions

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- 33 (1) A \*sub-fund of a \*CCIV satisfies the trading business restrictions
- 34 under this section in relation to the income year unless, at any time
- 35 in the income year, the CCIV:

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- 1 (a) carries on a trading business (within the meaning of  
2 Division 6C of Part III of the *Income Tax Assessment Act*  
3 *1936*); or
- 4 (b) controls, or is able to control, directly or indirectly, the affairs  
5 or operations of another person in respect of the carrying on  
6 by that other person of a trading business (within the  
7 meaning of that Division);  
8 wholly or partly through the sub-fund.
- 9 (2) For the purposes of paragraph (1)(a) the \*CCIV is not taken to  
10 carry on a trading business during the income year wholly or partly  
11 through the \*sub-fund if, for that year, no more than 2% of the  
12 entity's gross revenue attributable to the sub-fund was income that:
- 13 (a) was from things other than eligible investment business  
14 (within the meaning of Division 6C of Part III of the *Income*  
15 *Tax Assessment Act 1936*); and
- 16 (b) was not from the carrying on of a business that is not  
17 incidental and relevant to the eligible investment business.
- 18 (3) In determining whether paragraph (1)(a) or (b) applies to a \*CCIV,  
19 disregard any interest that the CCIV has in an \*AFOF, an  
20 \*ESVCLP or a \*VCLP unless:
- 21 (a) the CCIV is a \*general partner of the AFOF, ESVCLP or  
22 VCLP; or
- 23 (b) the CCIV has \*committed capital in the partnership that,  
24 taken together with the sum of the amounts of committed  
25 capital in the partnership of any of that partner's \*associates  
26 (other than associates to whom subsection (4) applies),  
27 exceeds 30% of the partnership's committed capital.
- 28 (4) This subsection applies to:
- 29 (a) an \*ADI; or
- 30 (b) a \*life insurance company; or
- 31 (c) a public authority:
- 32 (i) that is constituted by a law of a State or internal  
33 Territory; and
- 34 (ii) that carries on life insurance business within the  
35 meaning of section 11 of the *Life Insurance Act 1995*; or
- 36 (d) a widely-held complying superannuation fund within the  
37 meaning of section 4A of the *Pooled Development Funds Act*  
38 *1992*; or
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1 (e) a \*widely held foreign venture capital fund of funds.

## 2 **276-28 Meaning of *sub-fund participation interest***

- 3 (1) An entity has a *sub-fund participation interest* in a \*sub-fund if the  
4 entity, directly or indirectly:
- 5 (a) holds, or has the right to \*acquire, interests representing a  
6 percentage of the value of the interests in the sub-fund; or
  - 7 (b) has the control of, or the ability to control, a percentage of  
8 the rights attaching to either or both of the following:
    - 9 (i) an interest, or set of interests, in the sub-fund;
    - 10 (ii) each right to receive a \*distribution, or set of such  
11 rights, in relation to the sub-fund.
- 12 (2) The *sub-fund participation interest* of the entity in the \*sub-fund is  
13 the greater of the percentages mentioned in paragraphs (1)(a) and  
14 (b).

## 15 **276-30 Extended definition of attribution sub-fund—temporary** 16 **circumstances outside the control of the CCIV**

17 A \*sub-fund of a \*CCIV is covered under this section in relation to  
18 an income year if:

- 19 (a) apart from a particular circumstance, it would be an  
20 \*attribution sub-fund in relation to the income year; and
  - 21 (b) the circumstance is temporary; and
  - 22 (c) the circumstance arose outside the control of the CCIV; and
  - 23 (d) it is fair and reasonable to treat the sub-fund as an attribution  
24 sub-fund in relation to the income year, having regard to the  
25 following matters:
    - 26 (i) the matters in paragraphs (a) and (b);
    - 27 (ii) the nature of the circumstance;
    - 28 (iii) the actions (if any) taken by the CCIV to address or  
29 remove the circumstance, and the speed with which  
30 such actions are taken;
    - 31 (iv) the extent to which treating the sub-fund as an  
32 attribution sub-fund in relation to the income year  
33 would increase or reduce the amount of tax otherwise  
34 payable by the CCIV, the \*members of the CCIV or any  
35 other entity;
    - 36 (v) any other relevant matter.
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## 276-32 Application of Part 3-28 to attribution sub-funds

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- (1) Part 3-28 (about attribution investment vehicles) applies in relation to an \*attribution sub-fund of a \*CCIV as if:
- (a) an amount derived, received, made or paid by the CCIV were derived, received, made or paid by the sub-fund, to the extent (if any) that the amount is attributable to the sub-fund; and
  - (b) an amount of income of the CCIV were an amount of income of the sub-fund, to the extent (if any) that the amount is attributable to the sub-fund; and
  - (c) a \*tax offset of the CCIV were a tax offset of the sub-fund, to the extent (if any) that the circumstances giving rise to the tax offset are attributable to the sub-fund.

Note: If a CCIV has a sub-fund that is not an attribution sub-fund, this subsection will not apply to amounts, income or tax offsets to the extent that they are attributable to that sub-fund, and the income tax position of the sub-fund will be taken into account in determining the CCIV's income tax position (see section 195-105).

- (2) If an \*AIV is an \*attribution sub-fund of a \*CCIV:
- (a) a provision of the \*taxation law that imposes a liability or obligation on the AIV is taken to impose the liability or obligation on the CCIV instead; and
  - (b) a reference in the taxation law to the AIV doing a thing (such as giving an \*AIVMA statement) is taken to be a reference to the CCIV doing that thing.

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## Schedule 2—Attribution investment vehicles

### *Income Tax Assessment Act 1997*

#### **1 Division 276 (heading)**

Repeal the heading, substitute:

### **Part 3-28—Attribution investment vehicles**

#### **Division 276—Attribution investment vehicles**

##### **2 Section 276-1**

Omit:

A managed investment trust in relation to an income year is an attribution managed investment trust (or AMIT) for the income year if certain criteria are satisfied. In particular, for the trust to be an AMIT, the interests of the members of the trust need to be clearly defined at all times during which the trust is in existence in the income year (see Subdivision 276-A).

substitute:

An attribution investment vehicle (or AIV) for an income year can be an attribution managed investment trust (or AMIT), or an attribution sub-fund of a corporate collective investment vehicle (see Subdivision 276-A).

##### **3 Section 276-1**

Omit “offsets of an AMIT, determined by the trustee”, substitute “offsets of an AIV, determined by the operator of the AIV”.

##### **4 Section 276-1**

Omit “at the trust level”, substitute “at the AIV level”.

##### **5 Section 276-1**

Omit “The trustee of an AMIT”, substitute “An AIV (or, if the AIV is an AMIT, the trustee of the AMIT)”.

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## 6 Section 276-1

Omit “a trust that ceases to be an AMIT”, substitute “an entity (or sub-fund) that ceases to be an AIV”.

## 7 Subdivision 276-A (heading)

Repeal the heading, substitute:

### Subdivision 276-A—What is an attribution investment vehicle?

## 8 Section 276-5

Repeal the section, substitute:

### 276-5 What this Subdivision is about

An attribution investment vehicle (or AIV) for an income year can be:

- (a) an attribution managed investment trust (or AMIT) for the income year (which is a managed investment trust in relation to which certain criteria are satisfied); or
- (b) an attribution sub-fund for the income year (which is a sub-fund, of a corporate collective investment vehicle (or CCIV), in relation to which certain criteria are satisfied).

## 9 Before section 276-10

Insert:

### 276-7 Meaning of *attribution investment vehicle* (or AIV)

An entity (or \*sub-fund) mentioned in an item in column 1 of the following table is an *attribution investment vehicle* for an income year, and the entity mentioned in that item in column 2 is the *operator* of that entity or sub-fund.

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Item	Column 1 An entity or sub-fund of this kind is an attribution investment vehicle ...	Column 2 ... of which this entity is the operator
1	An *attribution managed investment trust (see section 276-10)	The trustee of the trust

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Item	Column 1	Column 2
	An entity or sub-fund of this kind is an attribution investment vehicle ...	... of which this entity is the operator

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2	An *attribution sub-fund of a *CCIV (see section 276-20)	The CCIV
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1 **Attribution managed investment trusts**

2 **10 At the end of Subdivision 276-A**

3 Add:

4 **Subdivision 276-AB—Classes of membership interests**

5 **Guide to Subdivision 276-AB**

6 **276-46 What this Subdivision is about**

7 If an AIV has different classes of membership interests, the  
8 operator of the AIV can choose to have each class treated  
9 separately.

10 Note: An AMIT may be covered by Subdivision 275-B (Choice for capital  
11 treatment of managed investment trust gains and losses).

12 **Table of sections**

13 **Operative provisions**

14 276-48 AIV with classes of membership interests—each class treated as separate  
15 AIV

16 **Operative provisions**

17 **276-48 AIV with classes of membership interests—each class treated**  
18 **as separate AIV**

19 (1) Subsections (2) and (3) apply if:

20 (a) the \*membership interests in an \*AIV for an income year are  
21 divided into classes; and

22 (b) the rights arising from each of those membership interests in  
23 a particular class are the same as the rights arising from every  
24 other of those membership interests in that class; and

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- 1 (c) each of those membership interests in a particular class is  
2 distinct from each of those membership interests in another  
3 class; and  
4 (d) the \*operator of the AIV has made a choice for the purposes  
5 of this paragraph that applies to the income year.

6 (2) For the purposes of this Division (other than this Subdivision),  
7 treat each class of those \*membership interests in the \*AIV as  
8 being a separate AIV for that income year.

9 (3) For the purposes of this Division, allocate assessable income,  
10 \*exempt income, \*non-assessable non-exempt income, \*tax losses,  
11 \*net capital losses and other similar amounts in respect of the \*AIV  
12 between each of the separate classes mentioned in subsection (1)  
13 on a fair and reasonable basis.

#### 14 *Making of choice by operator*

15 (4) A choice for the purposes of paragraph (1)(d) applies to the income  
16 year for which it is made and every subsequent income year.

17 (5) A choice for the purposes of paragraph (1)(d) cannot be revoked.

#### 18 **11 Section 276-75**

19 Omit “AMIT” (first and second occurring), substitute “AIV”.

#### 20 **12 Section 276-75**

21 After “withholding MIT”, insert “, or a CCIV that is not a withholding  
22 CCIV,”.

#### 23 **13 Subsection 276-80(1)**

24 Omit “\*AMIT”, substitute “\*AIV”.

#### 25 **14 Subsection 276-80(2)**

26 After “treat the member”, insert “(and not the \*AIV)”.

#### 27 **15 Paragraph 276-80(2)(a)**

28 Omit “(rather than as a member of a trust)”.

#### 29 **16 Paragraph 276-80(2)(b)**

30 Omit “\*AMIT”, substitute “AIV”.

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**17 Subsection 276-80(4)**

Omit “\*AMIT”, substitute “\*AIV”.

**18 Subsection 276-80(5)**

After “treat the member”, insert “(and not the \*AIV)”.

**19 Paragraph 276-80(5)(a)**

Omit “(rather than as a member of a trust)”.

**20 Paragraph 276-80(5)(b)**

Omit “\*AMIT”, substitute “AIV”.

**21 Subsection 276-85(1)**

Omit “\*AMIT”, substitute “\*AIV”.

**22 Subsection 276-85(3)**

After “applies if”, insert “the \*AIV is an \*AMIT and”.

**23 Paragraph 276-85(7)(a)**

Repeal the paragraph, substitute:

(a) the residence of:

(i) if the \*AIV is an \*AMIT—the trustee of the AMIT; or

(ii) if the \*AIV is an \*attribution sub-fund—the \*CCIV of which it is a \*sub-fund;

**24 Paragraph 276-85(7)(b)**

After “AMIT”, insert “or CCIV”.

**25 Subsection 276-90(1)**

Omit “\*AMIT”, substitute “\*AIV”.

**26 Paragraph 276-90(1)(a)**

Omit “AMIT”, substitute “AIV”.

**27 Subsection 276-90(2)**

Omit “\*AMIT”, substitute “\*AIV”.

**28 Paragraph 276-90(3)(a)**

Omit “\*AMIT”, substitute “\*AIV”.

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1 **29 Paragraph 276-90(3)(b)**

2 Omit “AMIT”, substitute “AIV”.

3 **30 Paragraph 276-90(5)(a)**

4 Omit “\*AMIT”, substitute “\*AIV”.

5 **31 Paragraph 276-90(5)(c)**

6 Omit “AMIT”, substitute “AIV”.

7 **32 Subsection 276-95(1)**

8 Omit “\*AMIT DIR payment”, substitute “\*AIV DIR payment”.

9 **33 Subsection 276-95(3) (note)**

10 Omit “AMITs”, substitute “AIVs”.

11 **34 Paragraph 276-100(1)(a)**

12 Omit “\*AMIT”, substitute “\*AIV”.

13 **35 Paragraph 276-100(1)(a)**

14 Omit “AMIT”, substitute “AIV”.

15 **36 Subsection 276-100(2)**

16 Omit “\*AMIT”, substitute “\*AIV”.

17 **37 Group heading before section 276-105**

18 Repeal the heading, substitute:

19 **Foreign resident members—taxation of AIV or trustee and**  
20 **corresponding tax offset for members**

21 **38 Section 276-105 (heading)**

22 Repeal the heading, substitute:

23 **276-105 AIV or trustee taxed on foreign resident’s determined**  
24 **member components**

25 **39 Paragraph 276-105(1)(a)**

26 Omit “\*AMIT”, substitute “\*AIV”.

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## 40 Paragraph 276-105(1)(a)

Omit “AMIT”, substitute “AIV”.

## 41 Subparagraph 276-105(1)(b)(ii)

Omit “a beneficiary in the capacity of a trustee of another trust—a trustee of the other trust”, substitute “a member in the capacity of a trustee of a trust (other than, if the AIV is an \*AMIT, the AMIT)—a trustee of the trust”.

## 42 Paragraph 276-105(1)(c)

Repeal the paragraph, substitute:

(c) the AIV is neither:

(i) an AMIT that is a \*withholding MIT; nor

(ii) an \*attribution sub-fund of a \*CCIV that is a \*withholding CCIV.

## 43 Subsection 276-105(2)

Omit “trustee of the \*AMIT”, substitute “entity that subsection (2A) provides is the liable entity”.

## 44 After subsection 276-105(2)

Insert:

(2A) For the purposes of subsection (2), the liable entity is:

(a) if the \*AIV is an \*AMIT—the trustee of the AMIT; or

(b) if the AIV is an \*attribution sub-fund of a \*CCIV—the CCIV.

## 45 Paragraph 276-105(5)(a)

After “gain”, insert “made by an \*AMIT”.

## 46 Paragraph 276-105(5)(b)

After “discount capital gain”, insert “made by an AMIT”.

## 47 Subsection 276-105(6) (heading)

Repeal the heading, substitute:

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*Exception for component reflected in AIV DIR payment or fund payment*

1  
2  
3 **48 Subsection 276-105(6)**

4 Omit “\*AMIT DIR payment”, substitute “\*AIV DIR payment”.

5 **49 Subsection 276-105(7)**

6 After “applies if”, insert “the \*AIV is an \*AMIT and”.

7 **50 Section 276-110 (heading)**

8 Omit “—member that is not a trustee”.

9 **51 Subsection 276-110(1)**

10 Omit “a trustee”, substitute “an entity”.

11 **52 Subsection 276-110(2)**

12 Omit “trustee”, substitute “entity”.

13 **53 Section 276-115 (heading)**

14 Repeal the heading, substitute:

15 **276-115 Custodian interposed between AIV and member**

16 **54 Paragraph 276-115(1)(a)**

17 Omit “\*AMIT”, substitute “\*AIV”.

18 **55 Paragraphs 276-115(1)(b) and (c)**

19 Omit “AMIT”, substitute “AIV”.

20 **56 Paragraph 276-115(3)(a)**

21 Omit “\*AMIT”, substitute “\*AIV”.

22 **57 Paragraph 276-115(3)(b)**

23 Omit “AMIT”, substitute “AIV”.

24 **58 Section 276-200**

25 Omit “AMIT’s determined trust component”, substitute “AIV’s  
26 determined AIV component”.

# EXPOSURE DRAFT

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## 1 59 Section 276-200

2 Omit “AMMA statement”, substitute “AIVMA statement”.

## 3 60 Subsection 276-205(1)

4 Omit “\*AMIT”, substitute “\*AIV”.

## 5 61 Subsection 276-205(1)

6 Omit “AMIT’s latest \*AMMA statement”, substitute “AIV’s latest  
7 \*AIVMA statement”.

## 8 62 Subparagraph 276-205(2)(b)(ii)

9 Omit “\*AMIT gives the member a revised \*AMMA statement”,  
10 substitute “\*AIV gives the member a revised \*AIVMA statement”.

## 11 63 Paragraph 276-205(2)(c)

12 Omit “trustee of the AMIT”, substitute “\*operator of the AIV”.

## 13 64 Subsection 276-205(4)

14 Omit “\*trust component”, substitute “\*AIV component”.

## 15 65 Subsection 276-205(4)

16 Omit “trust component” (wherever occurring), substitute “AIV  
17 component”.

## 18 66 Subsection 276-205(4) (example)

19 Repeal the example, substitute:

20 Example: The determined AIV component exceeds the AIV component because  
21 of an unintentional mistake by the operator of the AIV. As a result, a  
22 member’s corresponding determined member component under  
23 subsection (1) exceeds what it would have been if the operator had not  
24 made the mistake.

25 If the member makes a choice under subsection (2), the amount of the  
26 determined member component will be determined according to the  
27 amount of the AIV component.

## 28 67 Subsection 276-210(1)

29 Omit “\*AMIT”, substitute “\*AIV”.

# EXPOSURE DRAFT

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**68 Subsection 276-210(2)**

Omit “\*AMIT’s \*determined trust component”, substitute “\*AIV’s \*determined AIV component”.

**69 Subsection 276-210(2)**

Omit “AMIT”, substitute “AIV”.

**70 Subsection 276-210(3)**

Omit “\*AMIT”, substitute “\*AIV”.

**71 Subsection 276-210(4)**

Omit “\*determined trust component”, substitute “\*determined AIV component”.

**72 Paragraph 276-210(5)(a)**

Omit “\*AMIT give the trustee of the AMIT”, substitute “\*AIV give the \*operator of the AIV”.

**73 Subparagraph 276-210(5)(a)(i)**

Omit “AMIT”, substitute “AIV”.

**74 Paragraph 276-210(5)(b)**

Omit “trustee”, substitute “operator”.

**75 Subparagraph 276-210(6)(a)(i)**

Omit “a \*trust component of the \*AMIT”, substitute “an \*AIV component of the \*AIV”.

**76 Subparagraph 276-210(6)(a)(ii)**

Omit “a trust component of the AMIT”, substitute “an AIV component of the AIV”.

**77 Paragraph 276-210(6)(b)**

Omit “AMIT” (wherever occurring), substitute “AIV”.

**78 Paragraph 276-210(7)(a)**

Omit “trustee”, substitute “\*AIV (or, if the AIV is an \*AMIT, the trustee of the AMIT)”.

# EXPOSURE DRAFT

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## 79 Paragraph 276-210(7)(a)

Omit “a \*trust component of the \*AMIT”, substitute “an \*AIV component of the AIV”.

## 80 Paragraph 276-210(7)(b)

Omit “AMIT” (wherever occurring), substitute “AIV”.

## 81 Subdivision 276-E (heading)

Repeal the heading, substitute:

### Subdivision 276-E—AIV components

## 82 Section 276-250

Repeal the section, substitute:

### 276-250 What this Subdivision is about

An AIV’s *AIV component* of a particular character is worked out on the basis of the AIV’s assessable income, exempt income, non-assessable non-exempt income and tax offsets (on the assumption that the AIV were an Australian resident liable to pay tax).

An AIV’s *determined AIV component* of a particular character is the amount stated to be its AIV component of that character in a document that meets certain requirements.

## 83 Group heading before section 276-255

Repeal the heading, substitute:

### AIV-level concepts

## 84 Section 276-255 (heading)

Repeal the heading, substitute:

# EXPOSURE DRAFT

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## 1 276-255 Meaning of *determined AIV component*

### 2 85 Subsection 276-255(1)

3 Omit “\*AMIT’s *determined trust component*”, substitute “\*AIV’s  
4 *determined AIV component*”.

### 5 86 Subsection 276-255(1)

6 Omit “\*trust component”, substitute “\*AIV component”.

### 7 87 Paragraph 276-255(2)(a)

8 Omit “\*AMIT”, substitute “\*AIV”.

### 9 88 Paragraph 276-255(2)(b)

10 Omit “\*trust component”, substitute “\*AIV component”.

### 11 89 Paragraphs 276-255(2)(c) and (d)

12 Repeal the paragraphs, substitute:

- 13 (c) at a time after the document was created, the AIV sent  
14 \*AIVMA statements for the income year to entities that were  
15 \*members of the AIV in respect of the income year;
- 16 (d) the amount of the AIV component stated in the document  
17 reflects the amount of the \*determined member components  
18 reflected in those AIVMA statements.

### 19 90 Subsection 276-255(3) (example)

20 Repeal the example, substitute:

21 Example: The income year for the AIV ends on 30 June. The operator of the  
22 AIV creates a document stating the amount for the income year on  
23 1 July. It sends all AIVMA statements on 10 July. The operator  
24 creates another document stating a different amount for the income  
25 year on 1 September. It sends revised AIVMA statements reflecting  
26 that amount on 10 September. The document created on 1 September  
27 is the only document that meets the requirements in this section in  
28 respect of the amount for the income year.

### 29 91 Section 276-260 (heading)

30 Repeal the heading, substitute:

# EXPOSURE DRAFT

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1 **276-260 Meaning of AIV component**

2 **92 Subsection 276-260(1)**

3 Omit “\*AMIT’s”, substitute “\*AIV’s”.

4 **93 Subsection 276-260(2)**

5 Omit “\*AMIT’s *trust component*”, substitute “\*AIV’s *AIV*  
6 *component*”.

7 **94 Subsection 276-260(2)**

8 Omit “AMIT”, substitute “AIV”.

9 **95 Subsection 276-260(4)**

10 Omit “\*trust components”, substitute “\*AIV components”.

11 **96 At the end of section 276-260**

12 Add:

13 (5) If:

14 (a) the \*AIV is an \*attribution sub-fund of a \*CCIV; and

15 (b) another entity is the \*depository of the CCIV during an  
16 income year;

17 for the purposes of working out the AIV’s \*AIV component of a  
18 particular character for the income year (including any adjustments  
19 made under Subdivision 276-F):

20 (c) treat the AIV and the other entity (in its capacity as the  
21 CCIV’s depository) as if they were the same entity; and

22 (d) treat that same entity as if it were an Australian resident  
23 (whether or not the other entity is an Australian resident); and

24 (e) disregard any payments the AIV made to the other entity (in  
25 its capacity as the CCIV’s depository).

26 **97 Section 276-265 (heading)**

27 Repeal the heading, substitute:

# EXPOSURE DRAFT

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## 1 276-265 Rules for working out AIV components—general rules

### 2 98 Subsection 276-265(1)

3 Omit “\*trust component of each character in relation to the \*AMIT  
4 assuming that the AMIT’s trustee”, substitute “\*AIV component of each  
5 character in relation to the \*AIV assuming that the AIV (or, if the AIV  
6 is an \*AMIT, the AMIT’s trustee)”.

### 7 99 Subsection 276-265(2) (heading)

8 Repeal the heading, substitute:

9 *AIV components of assessable income character are net of*  
10 *deductions*

### 11 100 Subsection 276-265(2)

12 Omit “\*trust components”, substitute “\*AIV components”.

### 13 101 Subsection 276-265(2)

14 Omit “\*AMIT”, substitute “\*AIV”.

### 15 102 Subsection 276-265(2)

16 Omit “AMIT” (second and third occurring), substitute “AIV”.

### 17 103 Subsection 276-265(3)

18 Omit “\*trust component”, substitute “\*AIV component”.

### 19 104 Subsection 276-265(3)

20 Omit “\*AMIT”, substitute “\*AIV”.

### 21 105 Section 276-270 (heading)

22 Repeal the heading, substitute:

## 23 276-270 Rules for working out AIV components—allocation of 24 deductions

### 25 106 Section 276-300

26 Omit “trust level”, substitute “AIV level”.

### 27 107 Group heading before section 276-305

28 Repeal the heading, substitute:

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# EXPOSURE DRAFT

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1 **Adjustment of AIV component for unders and overs etc.**

2 **108 Section 276-305 (heading)**

3 Repeal the heading, substitute:

4 **276-305 Adjustment of AIV component for unders and overs**

5 **109 Subsection 276-305(1)**

6 Omit “\*AMIT’s \*trust component”, substitute “\*AIV’s \*AIV  
7 component”.

8 **110 Subsection 276-305(1)**

9 Omit “AMIT”, substitute “AIV”.

10 **111 Subsection 276-305(2) (heading)**

11 Repeal the heading, substitute:

12 *Unders increase AIV component*

13 **112 Subsection 276-305(2)**

14 Omit “\*AMIT”, substitute “\*AIV”.

15 **113 Subsection 276-305(2)**

16 Omit “\*trust component”, substitute “\*AIV component”.

17 **114 Subsection 276-305(3) (heading)**

18 Repeal the heading, substitute:

19 *Overs decrease AIV component*

20 **115 Subsection 276-305(3)**

21 Omit “\*AMIT”, substitute “\*AIV”.

22 **116 Subsection 276-305(3)**

23 Omit “\*trust component”, substitute “\*AIV component”.

24 **117 Section 276-310 (heading)**

25 Repeal the heading, substitute:

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# EXPOSURE DRAFT

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## 1 276-310 Rounding adjustment deficit increases AIV component

### 2 118 Subsection 276-310(1)

3 Omit “\*AMIT”, substitute “\*AIV”.

### 4 119 Subsection 276-310(1)

5 Omit “\*trust component”, substitute “\*AIV component”.

### 6 120 Subsection 276-310(2)

7 Omit “\*AMIT”, substitute “\*AIV”.

### 8 121 Paragraph 276-310(2)(a)

9 Omit “AMIT”, substitute “AIV”.

### 10 122 Paragraph 276-310(2)(b)

11 Omit “trustee of the AMIT”, substitute “\*operator of the AIV”.

### 12 123 Section 276-315 (heading)

13 Repeal the heading, substitute:

## 14 276-315 Rounding adjustment surplus decreases AIV component

### 15 124 Subsection 276-315(1)

16 Omit “\*AMIT”, substitute “\*AIV”.

### 17 125 Subsection 276-315(1)

18 Omit “\*trust component”, substitute “\*AIV component”.

### 19 126 Subsection 276-315(2)

20 Omit “\*AMIT”, substitute “\*AIV”.

### 21 127 Paragraph 276-315(2)(a)

22 Omit “AMIT”, substitute “AIV”.

### 23 128 Paragraph 276-315(2)(b)

24 Omit “trustee of the AMIT”, substitute “\*operator of the AIV”.

### 25 129 Subsection 276-315(3)

26 Omit “\*AMIT”, substitute “\*AIV”.

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# EXPOSURE DRAFT

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1 **130 Paragraph 276-315(3)(a)**

2 Omit “AMIT”, substitute “AIV”.

3 **131 Paragraph 276-315(3)(b)**

4 Repeal the paragraph, substitute:

5 (b) the \*determined AIV component of that character of the AIV  
6 for the income year.

7 **132 Subsection 276-315(4)**

8 After “applies if”, insert “the \*AIV is an \*AMIT and”.

9 **133 Section 276-320 (heading)**

10 Repeal the heading, substitute:

11 **276-320 Meaning of AIV component deficit**

12 **134 Section 276-320**

13 Omit “\*trust component”, substitute “\*AIV component”.

14 **135 Paragraph 276-320(a)**

15 Omit “\*trust component”, substitute “AIV component”.

16 **136 Paragraph 276-320(b)**

17 Omit “\*AMIT’s *trust component deficit*”, substitute “\*AIV’s *AIV*  
18 *component deficit*”.

19 **137 Section 276-325 (heading)**

20 Repeal the heading, substitute:

21 **276-325 AIV component of character relating to assessable**  
22 **income—adjustment for cross-character allocation**  
23 **amount, carry-forward AIV component deficit and FITO**  
24 **allocation amount**

25 **138 Subsection 276-325(1) (heading)**

26 Repeal the heading, substitute:

# EXPOSURE DRAFT

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*Section applies to AIV component of assessable income character*

1  
2 **139 Subsection 276-325(1)**

3 Omit “\*trust component”, substitute “\*AIV component”.

4 **140 Subsection 276-325(2) (heading)**

5 Repeal the heading, substitute:

6 *Cross-character allocation amount decreases AIV component*

7 **141 Subsection 276-325(2)**

8 Omit “\*AMIT”, substitute “\*AIV”.

9 **142 Subsection 276-325(2)**

10 Omit “\*trust component”, substitute “\*AIV component”.

11 **143 Subsection 276-325(2) (note)**

12 Omit “trust component deficit”, substitute “AIV component deficit”.

13 **144 Subsection 276-325(3) (heading)**

14 Repeal the heading, substitute:

15 *Carry-forward AIV component deficit decreases AIV component*

16 **145 Subsection 276-325(3)**

17 Omit “\*AMIT has a \*carry-forward trust component deficit”, substitute  
18 “\*AIV has a \*carry-forward AIV component deficit”.

19 **146 Subsection 276-325(3)**

20 Omit “\*trust component”, substitute “\*AIV component”.

21 **147 Subsection 276-325(3) (note)**

22 Omit “carry-forward trust component deficit”, substitute “carry-forward  
23 AIV component deficit”.

24 **148 Subsection 276-325(4) (heading)**

25 Repeal the heading, substitute:

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# EXPOSURE DRAFT

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*FITO allocation amount increases AIV component with the character of foreign source income*

1  
2  
3 **149 Paragraph 276-325(4)(a)**

4 Omit “\*trust component”, substitute “\*AIV component”.

5 **150 Paragraph 276-325(4)(b)**

6 Omit “\*AMIT”, substitute “\*AIV”.

7 **151 Subsection 276-325(4)**

8 Omit “trust component”, substitute “AIV component”.

9 **152 Section 276-330 (heading)**

10 Repeal the heading, substitute:

11 **276-330 Meanings of *cross-character allocation amount and***  
12 ***carry-forward AIV component deficit***

13 **153 Subsection 276-330(1) (heading)**

14 Repeal the heading, substitute:

15 *Section applies to AIV component of assessable income character*

16 **154 Subsection 276-330(1)**

17 Omit “\*trust component”, substitute “\*AIV component”.

18 **155 Subsection 276-330(2)**

19 Omit “trustee”, substitute “\*operator of the \*AIV”.

20 **156 Subsection 276-330(2)**

21 Omit “a \*trust component deficit”, substitute “an \*AIV component  
22 deficit”.

23 **157 Subsection 276-330(2)**

24 Omit “\*AMIT’s *other* trust components”, substitute “AIV’s *other* \*AIV  
25 components”.

26 **158 Subsection 276-330(3)**

27 Repeal the subsection, substitute:

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# EXPOSURE DRAFT

- 
- 1 (3) For the \*operator of the \*AIV to make an allocation under  
2 subsection (2), the operator:  
3 (a) must allocate that \*AIV component deficit between those  
4 other \*AIV components on a reasonable basis; and  
5 (b) cannot allocate more to an AIV component than the amount  
6 of that AIV component.

7 **159 Subsection 276-330(4)**

8 Omit “trustee”, substitute “\*operator of the \*AIV”.

9 **160 Subsection 276-330(4)**

10 Omit “a \*trust component”, substitute “an \*AIV component”.

11 **161 Subsection 276-330(5) (heading)**

12 Repeal the heading, substitute:

13 *Carry-forward AIV component deficit*

14 **162 Subsection 276-330(5)**

15 Omit “\*trust component deficit”, substitute “\*AIV component deficit”.

16 **163 Subsection 276-330(5)**

17 Omit “\*AMIT’s *carry-forward trust component deficit*”, substitute  
18 “\*AIV’s *carry-forward AIV component deficit*”.

19 **164 Paragraph 276-335(1)(a)**

20 Omit “\*AMIT has a \*trust component”, substitute “\*AIV has an \*AIV  
21 component”.

22 **165 Paragraph 276-335(1)(b)**

23 Omit “AMIT has a \*trust component deficit”, substitute “AIV has an  
24 \*AIV component deficit”.

25 **166 Subsection 276-335(2)**

26 Omit “\*AMIT”, substitute “\*AIV”.

27 **167 Paragraph 276-335(2)(a)**

28 Omit “\*trust component deficit”, substitute “\*AIV component deficit”.

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# EXPOSURE DRAFT

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1 **168 Subparagraph 276-335(2)(b)(i)**

2 Omit “trust component deficit”, substitute “AIV component deficit”.

3 **169 Section 276-340 (heading)**

4 Repeal the heading, substitute:

5 **276-340 AIV component character relating to tax offset—taxation of**  
6 **AIV component deficit**

7 **170 Paragraph 276-340(1)(a)**

8 Omit “\*AMIT has a \*trust component”, substitute “\*AIV has an \*AIV  
9 component”.

10 **171 Paragraph 276-340(1)(b)**

11 Omit “trust component”, substitute “AIV component”.

12 **172 Paragraph 276-340(1)(c)**

13 Omit “AMIT has a \*trust component deficit”, substitute “AIV has an  
14 \*AIV component deficit”.

15 **173 Subsection 276-340(2) (heading)**

16 Repeal the heading, substitute:

17 *Offset AIV component deficit (other than FITO character) taxed*

18 **174 Subsection 276-340(2)**

19 Omit “trustee of the \*AMIT”, substitute “\*AIV (or, if the AIV is an  
20 \*AMIT, the trustee of the AMIT)”.

21 **175 Subsection 276-340(2)**

22 Omit “\*trust component deficit”, substitute “\*AIV component deficit”.

23 **176 Subsection 276-340(2) (note)**

24 Repeal the note, substitute:

25 Note 1: If the AIV is an attribution sub-fund of a CCIV, the CCIV is liable to  
26 pay the tax: see paragraph 276-32(2)(a).

27 Note 2: The tax is imposed by the *Income Tax (Attribution Investment*  
28 *Vehicles—Offsets) Act 2016* and the rate of the tax is set out in that  
29 Act.

# EXPOSURE DRAFT

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1 **177 Subsection 276-345(1)**

2 Omit “\*AMIT’s”, substitute “\*AIV’s”.

3 **178 Subsection 276-345(2)**

4 Omit “trustee works out the \*determined trust component”, substitute  
5 “\*operator of the \*AIV works out the \*determined AIV component”.

6 **179 Subsection 276-345(2) (note)**

7 Omit “determined trust component”, substitute “determined AIV  
8 component”.

9 **180 Paragraph 276-345(3)(a)**

10 Omit “\*AMIT’s \*trust component”, substitute “\*AIV’s \*AIV  
11 component”.

12 **181 Paragraph 276-345(3)(a)**

13 Omit “trustee’s”, substitute “\*operator’s”.

14 **182 Subparagraph 276-345(3)(b)(i)**

15 Omit “AMIT’s \*determined trust component”, substitute “AIV’s  
16 \*determined AIV component”.

17 **183 Subsections 276-345(4) and (5)**

18 Omit “\*AMIT”, substitute “\*AIV”.

19 **184 Section 276-350**

20 Omit “\*AMIT”, substitute “\*AIV”.

21 **185 Paragraph 276-350(a)**

22 Omit “\*trust component”, substitute \*AIV component”.

23 **186 Paragraph 276-350(a)**

24 Omit “AMIT’s \*determined trust component”, substitute “AIV’s  
25 \*determined AIV component”.

26 **187 Section 276-400**

27 Omit “The trustee of an AMIT”, substitute “An AIV (or, if the AIV is  
28 an AMIT, the trustee of the AMIT)”.

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# EXPOSURE DRAFT

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1 **188 Group heading before section 276-405**

2 Repeal the heading, substitute:

3 **Ensuring determined AIV components are properly taxed**

4 **189 Section 276-405 (heading)**

5 Repeal the heading, substitute:

6 **276-405 AIV or trustee taxed on shortfall in determined member**  
7 **component (character relating to assessable income)**

8 **190 Subsection 276-405(1)**

9 Omit “\*AMIT”, substitute “\*AIV”.

10 **191 Paragraph 276-405(1)(a)**

11 Omit “AMIT”, substitute “AIV”.

12 **192 Subsection 276-405(2)**

13 Omit “The trustee”, substitute “The \*AIV (or, if the AIV is an \*AMIT,

14 the trustee of the AMIT)”.

15 **193 Subsection 276-405(2)**

16 Omit “\*AMIT”, substitute “AIV”.

17 **194 Subsection 276-405(2) (note)**

18 Repeal the note, substitute:

19 Note 1: If the AIV is an attribution sub-fund of a CCIV, the CCIV is liable to  
20 pay the tax: see paragraph 276-32(2)(a).

21 Note 2: The rate is set out in subsection 12(11) of the *Income Tax Rates Act*  
22 *1986*.

23 **195 Section 276-410 (heading)**

24 Repeal the heading, substitute:

25 **276-410 AIV or trustee taxed on excess in determined member**  
26 **component (character relating to tax offset)**

27 **196 Subsection 276-410(1)**

28 Omit “\*AMIT”, substitute “\*AIV”.

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# EXPOSURE DRAFT

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1 **197 Paragraph 276-410(1)(a)**

2 Omit “AMIT”, substitute “AIV”.

3 **198 Subsection 276-410(2)**

4 Omit “The trustee”, substitute “The \*AIV (or, if the AIV is an \*AMIT,  
5 the trustee of the AMIT)”.

6 **199 Subsection 276-410(2)**

7 Omit “\*AMIT”, substitute “AIV”.

8 **200 Subsection 276-410(2) (note)**

9 Repeal the note, substitute:

10 Note 1: If the AIV is an attribution sub-fund of a CCIV, the CCIV is liable to  
11 pay the tax: see paragraph 276-32(2)(a).

12 Note 2: The tax is imposed by the *Income Tax (Attribution Investment*  
13 *Vehicles—Offsets) Act 2016* and the rate of the tax is set out in that  
14 Act.

15 **201 Section 276-415 (heading)**

16 Repeal the heading, substitute:

17 **276-415 AIV or trustee taxed on amounts of determined AIV**  
18 **component that are not reflected in determined member**  
19 **components**

20 **202 Subsection 276-415(1)**

21 Omit “\*AMIT”, substitute “\*AIV”.

22 **203 Paragraph 276-415(1)(a)**

23 Omit “AMIT”, substitute “AIV”.

24 **204 Paragraph 276-415(1)(b)**

25 Omit “\*determined trust component”, substitute “\*determined AIV  
26 component”.

27 **205 Paragraph 276-415(1)(b)**

28 Omit “AMIT”, substitute “AIV”.

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# EXPOSURE DRAFT

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1 **206 Subsection 276-415(2)**

2 Omit “The trustee”, substitute “The \*AIV (or, if the AIV is an \*AMIT,  
3 the trustee of the AMIT)”.

4 **207 Paragraph 276-415(2)(a)**

5 Omit “\*AMIT”, substitute “AIV”.

6 **208 Subsection 276-415(2) (note)**

7 Repeal the note, substitute:

8 Note 1: If the AIV is an attribution sub-fund of a CCIV, the CCIV is liable to  
9 pay the tax: see paragraph 276-32(2)(a).

10 Note 2: The rate is set out in subsection 12(12) of the *Income Tax Rates Act*  
11 *1986*.

12 **209 Subsection 276-415(3)**

13 After “applies if”, insert “the \*AIV is an \*AMIT and”.

14 **210 Section 276-420 (heading)**

15 Repeal the heading, substitute:

16 **276-420 AIV or trustee taxed on amounts of under of character**  
17 **relating to assessable income not properly carried**  
18 **forward**

19 **211 Subsection 276-420(1)**

20 Omit “\*AMIT”, substitute “\*AIV”.

21 **212 Paragraph 276-420(1)(a)**

22 Omit “AMIT”, substitute “AIV”.

23 **213 Paragraph 276-420(1)(a)**

24 Omit “trustee on the basis of the trustee’s”, substitute “\*operator of the  
25 AIV on the basis of the operator’s”.

26 **214 Paragraph 276-420(1)(b)**

27 Omit “trustee”, substitute “operator”.

# EXPOSURE DRAFT

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**215 Subsection 276-420(2)**

Omit “The trustee”, substitute “The \*AIV (or, if the AIV is an \*AMIT, the trustee of the AMIT)”.

**216 Subsection 276-420(2)**

Omit “\*AMIT”, substitute “AIV”.

**217 Subsection 276-420(2) (note)**

Repeal the note, substitute:

Note 1: If the AIV is an attribution sub-fund of a CCIV, the CCIV is liable to pay the tax: see paragraph 276-32(2)(a).

Note 2: The rate is set out in subsection 12(13) of the *Income Tax Rates Act 1986*.

**218 Paragraph 276-420(4)(b)**

Omit “\*AMIT”, substitute “\*AIV”.

**219 Section 276-425 (heading)**

Repeal the heading, substitute:

**276-425 AIV or trustee taxed on amounts of over of character relating to tax offset not properly carried forward****220 Subsection 276-425(1)**

Omit “\*AMIT”, substitute “\*AIV”.

**221 Paragraph 276-425(1)(a)**

Omit “AMIT”, substitute “AIV”.

**222 Paragraph 276-425(1)(a)**

Omit “trustee on the basis of the trustee’s”, substitute “\*operator of the AIV on the basis of the operator’s”.

**223 Paragraph 276-425(1)(b)**

Omit “trustee”, substitute “operator”.

**224 Subsection 276-425(2)**

Omit “The trustee”, substitute “The \*AIV (or, if the AIV is an \*AMIT, the trustee of the AMIT)”.

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# EXPOSURE DRAFT

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## 225 Subsection 276-425(2)

Omit “\*AMIT”, substitute “AIV”.

## 226 Subsection 276-425(2) (note)

Repeal the note, substitute:

Note 1: If the AIV is an attribution sub-fund of a CCIV, the CCIV is liable to pay the tax: see paragraph 276-32(2)(a).

Note 2: The tax is imposed by the *Income Tax (Attribution Investment Vehicles—Offsets) Act 2016* and the rate of the tax is set out in that Act.

## 227 Paragraph 276-425(4)(b)

Omit “\*AMIT”, substitute “\*AIV”.

## 228 Subdivision 276-H

Repeal the Subdivision, substitute:

### Subdivision 276-H—AIVMA statements

#### Guide to Subdivision 276-H

#### 276-450 What this Subdivision is about

An AIV for an income year must give each member of the AIV in respect of the income year an AIV member annual statement (or AIVMA statement) for the income year.

#### Table of sections

##### Operative provisions

276-455 Obligation to give an AIVMA statement

276-460 Meaning of *AIV member annual statement* (or *AIVMA statement*)

#### Operative provisions

#### 276-455 Obligation to give an AIVMA statement

- (1) An \*AIV for an income year must give each \*member of the AIV in respect of the income year an \*AIVMA statement for the income year.

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- 1 Note 1: If the AIV is an attribution sub-fund of a CCIV, the CCIV has the  
2 obligation to give the AIVMA statements: see paragraph 276-32(2)(a).
- 3 Note 2: Section 286-75 in Schedule 1 to the *Taxation Administration Act 1953*  
4 provides an administrative penalty for breach of this subsection.
- 5 (2) The statement must be given no later than 3 months after the end of  
6 the income year.
- 7 (3) However, the \*AIV need not give an \*AIVMA statement under  
8 subsection (1) to a \*member if:
- 9 (a) all of the member's \*determined member components for the  
10 AIV for the income year are nil; and
- 11 (b) all of the member's \*membership interests in the AIV have  
12 an \*AIV cost base net amount for the income year of nil.
- 13 (4) To avoid doubt, the \*AIV does not fail to comply with  
14 subsection (1) merely because:
- 15 (a) the AIV gives \*AIVMA statements for the income year to  
16 \*members in accordance with subsection (1) by the time  
17 required under subsection (2); and
- 18 (b) after that time, the AIV gives those members further AIVMA  
19 statements for the income year that replace the AIVMA  
20 statements mentioned in paragraph (a).

## 21 **276-460 Meaning of AIV member annual statement (or AIVMA** 22 **statement)**

- 23 (1) An *AIV member annual statement* (or *AIVMA statement*) is a  
24 statement made by an \*AIV for an income year in accordance with  
25 this section.
- 26 (2) The statement must:
- 27 (a) include information that reflects the amount and character of  
28 each \*member component of the \*member for the income  
29 year; and
- 30 (b) state what the \*operator of the \*AIV reasonably estimates to  
31 be the amount of the excess or shortfall mentioned in  
32 section 104-610 (AIV cost base net amount) for the income  
33 year in respect of the \*CGT asset that is the member's unit or  
34 interest in the AIV.

# EXPOSURE DRAFT

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1 (3) The statement is *not* an *AIVMA statement* if the \*AIV fails to give  
2 it to the \*member to whom it is addressed within 4 years after the  
3 end of the income year.

4 Note: The AIV must give each member an AIVMA statement for the income  
5 year no later than 3 months after the end of the income year (see  
6 section 276-455).

## 7 **229 Section 276-500**

8 Omit “trust components”, substitute “AIV components”.

## 9 **230 Section 276-515 (heading)**

10 Repeal the heading, substitute:

### 11 **276-515 Distribution on debt-like trust instrument could be** 12 **deductible in working out AIV components**

## 13 **231 Subdivision 276-K (heading)**

14 Repeal the heading, substitute:

### 15 **Subdivision 276-K—Ceasing to be an AIV**

## 16 **232 Section 276-800**

17 Repeal the section, substitute:

### 18 **276-800 What this Subdivision is about**

19 If an entity or sub-fund ceases to be an AIV, and an under or over  
20 from an income year when the entity or sub-fund was an AIV is  
21 discovered, the under or over will have taxation consequences for  
22 the entity or sub-fund in the discovery year.

## 23 **233 Sections 276-805 and 276-810**

24 Repeal the sections, substitute:

### 25 **276-805 Application of Subdivision to former AIV**

26 This Subdivision applies if:

- 27 (a) an entity, or a \*sub-fund of a \*CCIV, was an \*AIV for an  
28 income year; and

# EXPOSURE DRAFT

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1 (b) the entity or sub-fund is *not* an AIV for a later income year  
2 (the *discovery year*).

3 **276-810 Continue to work out AIV components, unders, overs etc.**

4 (1) For the purposes of this section, assume that the entity or \*sub-fund  
5 is an \*AIV for the discovery year.

6 (2) If the entity or \*sub-fund has an \*under or \*over of a character in  
7 the discovery year for an earlier income year when the entity or  
8 sub-fund was an \*AIV, work out the extent to which the under or  
9 over:

10 (a) increases the amount of the AIV's \*AIV component of that  
11 character for the discovery year; or

12 (b) decreases the amount of the AIV's AIV component of that  
13 character for the discovery year.

14 **234 Subsection 276-815(2)**

15 Omit “trust”, substitute “entity or \*CCIV”.

16 **235 Subsection 276-815(3)**

17 After “applies if”, insert “the entity is a trust that was an \*AMIT and”.

18 **236 Subsections 276-815(5) and (6)**

19 Omit “trust”, substitute “entity or \*CCIV”.

20 **237 Subsection 276-815(7)**

21 Omit “trust” (first occurring), substitute “entity or \*CCIV”.

22 **238 Subsection 276-815(7)**

23 Omit “trust” (last occurring), substitute “entity or CCIV”.

24 **239 Subparagraph 276-820(2)(a)(i)**

25 After “gain”, insert “made by an \*AMIT”.

26 **240 Subparagraph 276-820(2)(a)(ii)**

27 After “gain”, insert “made by an AMIT”.

28 **241 Paragraph 276-820(2)(a)**

29 Omit “trust”, substitute “entity or \*CCIV”.

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1 **242 Subparagraphs 276-820(2)(b)(i) and (ii)**

2 After “discount capital gain”, insert “made by an AMIT”.

3 **243 Paragraphs 276-820(2)(b) and (c)**

4 Omit “trust”, substitute “entity or CCIV”.

5 **244 Subsections 276-820(3), (4) and (5)**

6 Omit “trust”, substitute “entity or \*CCIV”.

7 **245 Paragraph 276-820(6)(a)**

8 Repeal the paragraph, substitute:

9 (a) unless paragraph (b) applies:

10 (i) in the case of an entity—the entity (or, if the entity is a  
11 trust, the trustee) is liable to pay tax; or

12 (ii) in the case of a \*sub-fund of a \*CCIV—the CCIV is  
13 liable to pay tax;

14 at the rate declared by the Parliament on the excess; or

15 Note: The tax is imposed by the *Income Tax (Attribution Investment*  
16 *Vehicles—Offsets) Act 2016* and the rate of the tax is set out in  
17 that Act.

18 **246 Subsection 276-820(7)**

19 Omit “trust’s”, substitute “entity’s or \*CCIV’s”.

20 ***Taxation Administration Act 1953***

21 **247 Paragraph 286-75(2AB)(a) in Schedule 1**

22 Omit “(AMMA statements)”, substitute “(AIVMA statements)”.

23 **248 Section 288-115 in Schedule 1 (heading)**

24 Repeal the heading, substitute:

25 **288-115 AIV under or over resulting from intentional disregard of**  
26 **or recklessness as to taxation law**

27 **249 Paragraph 288-115(1)(a) in Schedule 1**

28 Omit “a trustee of an \*AMIT”, substitute “the \*operator of an \*AIV”.

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1 **250 Paragraph 288-115(1)(b) in Schedule 1**

2 Omit “AMIT”, substitute “AIV”.

3 **251 Subsection 288-115(3) in Schedule 1 (table items 1 and 2,**  
4 **column 1)**

5 Omit “trustee of the \*AMIT or the trustee’s agent”, substitute “\*operator  
6 of the \*AIV or the operator’s agent”.

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## Schedule 3—Corporate collective investment vehicles

### *Income Tax Assessment Act 1997*

#### 1 At the end of Division 195

Add:

#### Subdivision 195-C—Corporate collective investment vehicles

#### Guide to Subdivision 195-C

#### 195-100 What this Subdivision is about

Obligations and entitlements under a taxation law are ascertained as if a CCIV were a separate company in relation to each of its sub-funds.

#### Table of sections

##### Operative provisions

195-105 Obligations and entitlements of CCIVs to be worked out separately for each sub-fund

#### Operative provisions

#### 195-105 Obligations and entitlements of CCIVs to be worked out separately for each sub-fund

- (1) If a \*CCIV has one or more \*sub-funds, the provisions of a \*taxation law apply, in relation to the matters mentioned in subsection (2), as if the CCIV were a separate company in relation to each of those sub-funds.
- (2) For the purposes of subsection (1), the matters are:
  - (a) ascertaining the existence or extent, under a \*taxation law, of an obligation (including a liability) of:
    - (i) the \*CCIV; or

# EXPOSURE DRAFT

- 
- 1 (ii) another entity (if the obligation or entitlement is  
2 affected, directly or indirectly, by any matter relating to  
3 the CCIV or one or more of its sub-funds); or  
4 (iii) the Commissioner; and  
5 (b) complying with that obligation; and  
6 (c) ascertaining the existence or extent, under a taxation law, of  
7 an entitlement (including a right to act and a right not to act)  
8 of:  
9 (i) the CCIV; or  
10 (ii) another entity (if the obligation or entitlement is  
11 affected, directly or indirectly, by any matter relating to  
12 the CCIV or one or more of its \*sub-funds); or  
13 (iii) the Commissioner; and  
14 (d) exercising that entitlement.

15 Note 1: These are examples of the operation of subsection (1) and this  
16 subsection:  
17 (a) the income tax positions in relation to each of the sub-funds of a  
18 CCIV are ascertained separately;  
19 (b) a CCIV must, under section 161 of the *Income Tax Assessment*  
20 *Act 1936*, give separate returns in relation to each of its  
21 sub-funds;  
22 (c) a CCIV would register separately under the GST Act in relation  
23 to its sub-funds (and, for the purposes of ascertaining whether it  
24 is required to be registered in relation to a particular sub-fund,  
25 ascertain separately the GST turnover in relation to that  
26 sub-fund).

27 Note 2: The income tax position in relation to an attribution sub-fund is  
28 ascertained by applying “flow-through” tax treatment under  
29 section 276-80. The income tax position in relation to any other  
30 sub-fund is ascertained by applying corporate tax treatment.

- 31 (3) Ascertain, for the purposes of subsection (1), an obligation or  
32 entitlement mentioned in subsection (2) in relation to a \*sub-fund  
33 of a \*CCIV as a separate company as if:  
34 (a) the only \*business carried on by the CCIV were the part of  
35 the business of the CCIV that is the business of that sub-fund;  
36 and  
37 (b) any business of the CCIV that is not the business of that  
38 sub-fund were part of a business carried on by another  
39 company.  
40 (4) Assume, for the purposes of subsection (1), that:
-

# EXPOSURE DRAFT

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- 1 (a) each of the separate companies mentioned in subsection (1)  
2 that relates to a \*sub-fund does not satisfy the \*business  
3 continuity test for any period; and  
4 (b) section 165-96 does not apply in relation to any of the  
5 separate companies mentioned in subsection (1) that relates  
6 to an \*attribution sub-fund.
- 7 (5) To avoid doubt, any obligation or entitlement ascertained under  
8 this section in relation to a \*sub-fund of a \*CCIV:  
9 (a) is an obligation or entitlement of the CCIV; and  
10 (b) is separate from any other obligation or entitlement of the  
11 CCIV under a \*taxation law.

# EXPOSURE DRAFT

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## Schedule 4—Capital gains tax

### *Income Tax Assessment Act 1997*

#### **1 Paragraph 70-10(2)(b)**

After “section 275-105”, insert “or 276-610”.

#### **2 Section 104-5 (table item E10)**

Repeal the item.

#### **3 Section 104-5 (at the end of the table)**

Add:

M1 Annual cost base reduction exceeds cost base of interest in AIV	when reduction happens	excess of cost base reduction over cost base	<i>no capital loss</i>
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[See section 104-600]

#### **4 Subsection 104-70(1A)**

Omit “\*AMIT”, substitute “\*AIV”.

#### **5 At the end of subsection 104-70(1A)**

Add:

Note: CGT event M1 may apply if the unit or interest is a unit or interest in an AMIT.

#### **6 Sections 104-107A to 104-107H**

Repeal the sections.

#### **7 After subsection 104-135(1)**

Insert:

(1AA) However, *CGT event G1* does not happen if the \*share mentioned in subsection (1) is a share in an \*AIV.

Note: CGT event M1 may apply if the share is a share in an AIV.

#### **8 At the end of Division 104**

Add:

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## Subdivision 104-M—Attribution investment vehicles

### Table of sections

104-600	AIV—cost base reduction exceeds cost base: CGT event M1
104-605	Annual cost base adjustment for member’s unit or interest in AIV
104-610	AIV cost base net amount
104-615	AIV cost base reduction amount
104-620	AIV cost base increase amount
104-625	Receipt of money etc. increasing AIV cost base reduction amount not to be treated as income
104-630	Effect of AIV cost base net amount on cost of AIV membership interest etc. that is a revenue asset—adjustment of cost of asset
104-635	Effect of AIV cost base net amount on cost of AIV membership interest etc. that is a revenue asset—amount included in assessable income

### 104-600 AIV—cost base reduction exceeds cost base: CGT event M1

(1) *CGT event M1* happens if:

- (a) you are a \*member of an \*AIV in respect of an income year because you have a \*CGT asset that is your \*share, your unit or your interest in the AIV; and
- (b) either:
  - (i) the \*cost base of that asset is reduced under subsection 104-605(2) during the income year; or
  - (ii) the cost base of that asset is nil at the start of the income year; and
- (c) the asset’s \*AIV cost base net amount for the income year is the excess mentioned in paragraph 104-610(a); and
- (d) the asset’s AIV cost base net amount for the income year exceeds the cost base of the asset.

(2) The time of the event is:

- (a) if subparagraph (1)(b)(i) applies—the time at which the reduction occurs under section 104-605; or
- (b) if subparagraph (1)(b)(ii) applies—the time at which the \*cost base would have been reduced under subsection 104-605(2) during the income year if the cost base had been greater than nil at the start of the income year.

(3) You make a *capital gain* equal to:

- (a) if the \*cost base of the asset is nil—the excess mentioned in paragraph 104-610(a); or

# EXPOSURE DRAFT

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(b) if the cost base of the asset is not nil—the excess mentioned in paragraph (1)(d) of this section.

Note 1: If you make a capital gain, the cost base and reduced cost base of the CGT asset are reduced to nil (see paragraph 104-605(2)(a)).

Note 2: You cannot make a capital loss.

## *Exceptions*

- (4) A \*capital gain you make from \*CGT event M1 is disregarded if you \*acquired the \*CGT asset that is the \*share, unit or interest before 20 September 1985.

## **104-605 Annual cost base adjustment for member's unit or interest in AIV**

(1) This section applies if you are a \*member of an \*AIV in respect of an income year because you have a \*CGT asset that is your \*share, your unit or your interest in the AIV.

(2) If the \*CGT asset's \*AIV cost base net amount for the income year is the excess mentioned in paragraph 104-610(a):

(a) in a case where that AIV cost base net amount exceeds the \*cost base of the asset—reduce the cost base *and* the \*reduced cost base of the asset to nil; or

(b) otherwise—reduce the cost base *and* the reduced cost base of the asset by that AIV cost base net amount.

Note: If that AIV cost base net amount exceeds the cost base of the asset, CGT event M1 will happen (see section 104-600).

(3) If the \*CGT asset's \*AIV cost base net amount for the income year is the shortfall mentioned in paragraph 104-610(b), increase the \*cost base *and* the \*reduced cost base of the asset by that AIV cost base net amount.

(4) The time of the reduction or increase is:

(a) unless paragraph (b) applies—just before the end of the income year; or

(b) if a \*CGT event happens to the \*CGT asset at a time when you hold it before the end of the income year—just before the time of that CGT event.



# EXPOSURE DRAFT

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## 104-610 AIV cost base net amount

The \*CGT asset's *AIV cost base net amount* for the income year is:

- (a) if the CGT asset's \*AIV cost base reduction amount for the income year exceeds the CGT asset's \*AIV cost base increase amount for the income year—the amount of the excess; or
- (b) if the CGT asset's AIV cost base reduction amount for the income year falls short of the CGT asset's AIV cost base increase amount for the income year—the amount of the shortfall.

## 104-615 AIV cost base reduction amount

(1) The \*CGT asset's *AIV cost base reduction amount* for the income year is the total of:

- (a) money, and the \*market value of any property, if:
  - (i) you start to have a right to receive the money or property from the \*AIV (or, if the AIV is an \*AMIT, the trustee of the AMIT) in the income year; and
  - (ii) that right is indefeasible (disregarding section 276-55) or is reasonably likely not to be defeated; and
- (b) all amounts of \*tax offset that you have for the income year in respect of the AIV because of the operation of section 276-80;

to the extent that the total is reasonably attributable to the CGT asset.

(2) If:

- (a) \*CGT event A1, C2, E1, E2, E6 or E7 happens to the \*CGT asset before the end of the income year; and
- (b) as a result, the time of the reduction or increase mentioned in subsection 104-605(4) is just before the time of that CGT event;

do not include in the CGT asset's *AIV cost base reduction amount* for the income year any \*capital proceeds from that CGT event.

# EXPOSURE DRAFT

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## 104-620 AIV cost base increase amount

- 1
- 2 (1) The \*CGT asset's *AIV cost base increase amount* for the income
- 3 year is the total of the 2 amounts set out in the following
- 4 subsections.

5 *First amount—total of amounts not related to capital gains*

- 6 (2) The first amount is the total of all of the following amounts
- 7 included in your assessable income or \*non-assessable non-exempt
- 8 income for the income year in respect of the \*AIV, to the extent
- 9 that they are reasonably attributable to the \*CGT asset:

- 10 (a) amounts so included because of the operation of
- 11 section 276-80;
- 12 (b) amounts so included otherwise than because of the operation
- 13 of section 276-80 (as reduced in accordance with
- 14 section 276-100).

- 15 (3) For the purposes of subsection (2), disregard the \*AIV's \*net
- 16 capital gain (if any) for the income year.

17 *Second amount—total of amounts related to capital gains*

- 18 (4) The second amount is the total of each \*determined member
- 19 component of a character relating to \*capital gains that:
- 20 (a) you have for the income year in respect of the \*AIV; and
- 21 (b) is taken into account under section 276-80.

22 *Residence assumption*

- 23 (5) For the purposes of working out amounts under subsections (2) and
- 24 (4), assume that you are an Australian resident.

## 25 104-625 Receipt of money etc. increasing AIV cost base reduction

## 26 amount not to be treated as income

- 27 (1) Subsections (2) and (3) apply if:
- 28 (a) you start to have a right to receive any money or any property
- 29 from the \*AIV (or, if the AIV is an \*AMIT, the trustee of the
- 30 AMIT) in an income year; and
- 31 (b) the right is indefeasible (disregarding section 276-55) or is
- 32 reasonably likely not to be defeated; and

# EXPOSURE DRAFT

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- 1 (c) the right is *not* remuneration or consideration for you  
2 providing finance, services, goods or property to the AIV (or  
3 trustee) or to another person; and  
4 (d) the right is reasonably attributable to a \*CGT asset that is a  
5 \*membership interest in the AIV; and  
6 (e) the CGT asset is *neither* \*trading stock nor a \*Division 230  
7 financial arrangement; and  
8 (f) as a result of you starting to have the right, the CGT asset's  
9 \*AIV cost base reduction amount for the income year is  
10 increased because of the operation of section 104-615.
- 11 (2) These provisions do not apply to you starting to have the right:  
12 (a) sections 6-5 (about \*ordinary income), 8-1 (about amounts  
13 you can deduct), 15-15 and 25-40 (about profit-making  
14 undertakings or plans);  
15 (b) sections 25A and 52 of the *Income Tax Assessment Act 1936*  
16 (about profit-making undertakings or schemes).
- 17 (3) Section 6-10 (about \*statutory income) does not apply to you  
18 starting to have the right except so far as that section applies in  
19 relation to section 102-5 (about net capital gains).

## 20 **104-630 Effect of AIV cost base net amount on cost of AIV** 21 **membership interest etc. that is a revenue asset—** 22 **adjustment of cost of asset**

- 23 (1) This section applies if:  
24 (a) you are a \*member of an \*AIV in respect of an income year  
25 because you have a \*CGT asset that is your \*share, your unit  
26 or your interest in the AIV; and  
27 (b) the CGT asset is a \*revenue asset; and  
28 (c) the CGT asset is not a \*Division 230 financial arrangement.
- 29 (2) Make the adjustments in subsection (3) for the purposes of working  
30 out an amount included in your assessable income (or working out  
31 an amount treated as a deduction) under any of these provisions:  
32 (a) sections 6-5 (about \*ordinary income), 8-1 (about amounts  
33 you can deduct), 15-15 and 25-40 (about profit-making  
34 undertakings or plans);  
35 (b) sections 25A and 52 of the *Income Tax Assessment Act 1936*  
36 (about profit-making undertakings or schemes).

# EXPOSURE DRAFT

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- 1 (3) If the \*CGT asset's \*AIV cost base net amount for the income year  
2 is the excess mentioned in paragraph 104-610(a):  
3 (a) in a case where that AIV cost base net amount exceeds the  
4 cost of the asset—reduce the cost of the asset to nil; or  
5 (b) otherwise—reduce the cost of the asset by that AIV cost base  
6 net amount.

7 Note: If the AIV cost base net amount exceeds the cost of the asset, see  
8 section 104-635.

- 9 (4) If the \*CGT asset's \*AIV cost base net amount for the income year  
10 is the shortfall mentioned in paragraph 104-610(b), increase the  
11 cost of the asset by that AIV cost base net amount.

- 12 (5) The time of the reduction or increase is:

13 (a) unless paragraph (b) applies—just before the end of the  
14 income year; or

15 (b) if a \*CGT event happens to the \*CGT asset at a time when  
16 you hold it before the end of the income year—just before the  
17 time of that CGT event.

- 18 (6) For the purposes of this section and section 104-635, in working  
19 out the \*CGT asset's \*AIV cost base net amount for the income  
20 year, disregard any right that you start to have in the income year  
21 if:

22 (a) the right is for you to receive any money or any property  
23 from the \*AIV (or, if the AIV is an \*AMIT, the trustee of the  
24 AMIT); and

25 (b) the right is remuneration or consideration for you providing  
26 finance, services, goods or property to the AIV (or trustee) or  
27 to another person.

- 28 (7) For the purposes of section 118-20, treat this section as being  
29 outside of this Part.

30 Note: Section 118-20 deals with reducing capital gains if an amount is  
31 otherwise assessable.

32 **104-635 Effect of AIV cost base net amount on cost of AIV**  
33 **membership interest etc. that is a revenue asset—amount**  
34 **included in assessable income**

- 35 (1) Subsection (2) applies if:
-

# EXPOSURE DRAFT

- 
- 1 (a) paragraph 104-630(3)(a) applies in respect of the \*CGT  
2 asset's \*AIV cost base net amount for the income year; and  
3 (b) that AIV cost base net amount exceeds the cost of the \*CGT  
4 asset just before the time mentioned in  
5 subsection 104-630(5).
- 6 (2) Include in your assessable income for the income year in which  
7 that time occurs:  
8 (a) if the cost of the \*CGT asset was nil just before that time—  
9 the cost reduction amount; or  
10 (b) otherwise—the excess mentioned in paragraph (1)(b).
- 11 (3) Subsection (2) applies despite subsection 104-625(3).
- 12 (4) For the purposes of section 118-20, treat this section as being  
13 outside of this Part.
- 14 Note: Section 118-20 deals with reducing capital gains if an amount is  
15 otherwise assessable.

## 16 9 After Subdivision 276-J

17 Insert:

### 18 Subdivision 276-JA—Choice for capital treatment of AIV gains 19 and losses

#### 20 Guide to Subdivision 276-JA

#### 21 276-600 What this Subdivision is about

22 The operator of certain AIVs (but not AMITs) may make a choice  
23 that certain assets of the AIV be dealt with under CGT rules. If the  
24 operator does not make such a choice, those assets will be treated  
25 as revenue assets.

26 Note: An AMIT may be covered by Subdivision 275-B (Choice for capital  
27 treatment of managed investment trust gains and losses).

#### 28 Table of sections

##### 29 Operative provisions

30 276-605 Consequences of making choice—CGT to be primary code for calculating  
31 AIV gains or losses

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# EXPOSURE DRAFT

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1	276-610	Covered assets
2	276-615	AIV CGT choices
3	276-620	Consequences of not making choice—revenue account treatment

## 4 Operative provisions

### 5 **276-605 Consequences of making choice—CGT to be primary code** 6 **for calculating AIV gains or losses**

- 7 (1) The modifications in subsection (3) apply if:
- 8 (a) a \*CGT event happens at a time involving a \*CGT asset; and
  - 9 (b) the CGT asset is owned at that time by an entity that is an  
10 \*AIV, but not an \*AMIT, for the income year in which the  
11 time occurs; and
  - 12 (c) the CGT event happens because the AIV \*disposes of, ceases  
13 to own or otherwise realises the asset; and
  - 14 (d) the asset is covered by section 276-610; and
  - 15 (e) a choice under section 276-615 covering the entity is in force  
16 for the income year in which the time occurs.
- 17 (2) Without limiting paragraph (1)(b), if:
- 18 (a) a \*VCLP or an \*ESVCLP owns a \*CGT asset at the time  
19 referred to in that paragraph; and
  - 20 (b) at that time, the \*AIV has an interest in the asset as a \*limited  
21 partner of the VCLP or ESVCLP;  
22 for the purposes of that paragraph, the AIV is taken to own the  
23 asset to the extent of that interest.
- 24 (3) These provisions do not apply to the \*CGT event:
- 25 (a) sections 6-5 (about \*ordinary income), 8-1 (about amounts  
26 you can deduct), and 15-15 and 25-40 (about profit-making  
27 undertakings or plans);
  - 28 (b) section 118-20 (about reducing capital gains if amount  
29 otherwise assessable);
  - 30 (c) Division 70 and section 118-25 (about trading stock);
  - 31 (d) sections 25A and 52 of the *Income Tax Assessment Act 1936*  
32 (about profit-making undertakings or schemes).

# EXPOSURE DRAFT

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## *General exceptions*

- (4) The provisions referred to in subsection (3) can apply to the \*CGT event if a \*capital gain or \*capital loss from the event is disregarded because of one of the provisions in this table:

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### **Where gain or loss disregarded because of CGT provision**

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<b>Item</b>	<b>Provision</b>	<b>Brief description</b>
1	Paragraph 104-15(4)(a)	Title in a CGT asset does not pass when a hire purchase or similar agreement ends
2	Section 118-13	Shares in a PDF
3	Section 118-60	Certain gifts

---

## *Trading stock and profit-making undertakings or plans involving land etc.*

- (5) The provisions referred to in subsection (3) can also apply to the \*CGT event if:
- (a) where the \*CGT asset is land (including an interest in land), or a right or option to \*acquire or \*dispose of land (including an interest in land):
    - (i) the CGT asset is \*trading stock; or
    - (ii) the circumstances existing at the time of the event would, disregarding this Subdivision, give rise to an amount being included in the assessable income of the entity under section 15-15 or to a deduction for the entity under section 25-40 (about profit-making undertakings or plans); or
  - (b) where paragraph (a) does not apply:
    - (i) the \*AIV acquired the CGT asset in an income year for which the choice mentioned in paragraph (1)(e) was not in force; and
    - (ii) the CGT asset was treated as trading stock in the AIV's financial report for the most recent income year ending before the start of the income year in which that choice first came into force; and
    - (iii) the CGT asset was treated as trading stock in the \*income tax return for the AIV for the most recent income year ending before the start of the income year in which that choice first came into force; and

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- 
- 1 (iv) the CGT asset was treated as trading stock in the AIV's  
2 financial report for the most recent income year ending  
3 before the time of the event; and  
4 (v) the CGT asset was treated as trading stock in the income  
5 tax return for the AIV for the most recent income year  
6 ending before the time of the event.

## 7 *Treatment of outgoings to acquire trading stock*

- 8 (6) The modifications in subsection (7) apply if:
- 9 (a) an entity that is an \*AIV, but not an \*AMIT, for the income  
10 year \*acquires a \*CGT asset at a time in that income year;  
11 and
  - 12 (b) the CGT asset is an item of \*trading stock; and
  - 13 (c) the CGT asset is *not* land (including an interest in land), or a  
14 right or option to acquire or \*dispose of land (including an  
15 interest in land); and
  - 16 (d) the entity incurs an outgoing in connection with acquiring the  
17 asset; and
  - 18 (e) the asset is covered by section 276-610; and
  - 19 (f) a choice under section 276-615 covering the entity is in force  
20 for the income year in which the time occurs.
- 21 (7) The modifications are as follows:
- 22 (a) section 8-1 (about amounts you can deduct) does not apply to  
23 the \*acquisition;
  - 24 (b) Division 70 (about trading stock) does not apply in relation to  
25 the asset in respect of:
    - 26 (i) the income year in which the time occurs; and
    - 27 (ii) any later income year in relation to which the entity is  
28 an \*AIV.

## 29 **276-610 Covered assets**

- 30 (1) An asset is covered by this section if it is any of the following:



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- 
- 1 (a) a \*share in a company (including a share in a \*foreign hybrid  
2 company);  
3 (b) a \*non-share equity interest in a company;  
4 (c) a unit in a unit trust;  
5 (d) land (including an interest in land);  
6 (e) a right or option to \*acquire or \*dispose of an asset of a kind  
7 mentioned in paragraph (a), (b), (c) or (d).
- 8 (2) However, the asset is *not* covered by this section if it is any of the  
9 following:  
10 (a) a \*Division 230 financial arrangement;  
11 (b) a \*debt interest.

## 276-615 AIV CGT choices

- 13 (1) The \*operator of an entity or \*sub-fund that is an \*AIV may make a  
14 choice under this section that covers the AIV.
- 15 (2) The choice must be made in the \*approved form.
- 16 (3) The choice can be made only:  
17 (a) if the entity or \*sub-fund became an \*AIV in the 2018-19  
18 income year or a later income year (whether or not the entity  
19 or sub-fund existed before it became an AIV)—on or before  
20 the later of the following days:  
21 (i) the day it is required to lodge its \*income tax return for  
22 the income year in which it became an AIV;  
23 (ii) if the Commissioner allows a later day for the AIV—  
24 that later day; or  
25 (b) otherwise—on or before the latest of the following days:  
26 (i) the last day in the 3 month period starting on the day on  
27 which this section commences;  
28 (ii) the last day of the 2018-19 income year;  
29 (iii) if the Commissioner allows a later day for the AIV—  
30 that later day.
- 31 (4) The choice, once made, cannot be revoked.
- 32 (5) The choice is in force:  
33 (a) in the circumstances mentioned in paragraph (3)(a)—for the  
34 income year in which the entity or \*sub-fund became an

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1 \*AIV (whether or not the entity or sub-fund existed before it  
2 became an AIV) and later income years; or

3 (b) in the circumstances mentioned in paragraph (3)(b)—for the  
4 2018-19 income year and later income years.

## 5 **276-620 Consequences of not making choice—revenue account** 6 **treatment**

7 (1) This section applies if:

8 (a) the requirements in subsection 276-605(1) are met in relation  
9 to a \*CGT asset held by an \*AIV, apart from the requirement  
10 in paragraph 276-605(1)(e); and

11 (b) the CGT asset is not:

12 (i) land (including an interest in land); or

13 (ii) a right or option to \*acquire or \*dispose of land  
14 (including an interest in land); and

15 (c) the AIV disposes of, ceases to own or otherwise realises the  
16 asset; and

17 (d) disregarding this section:

18 (i) the net proceeds (if any) from the disposal, cessation or  
19 realisation would not be reflected in an amount being  
20 included in the assessable income of the AIV (other  
21 than under Part 3-1 or 3-3); and

22 (ii) the gain or profit (if any) on the disposal, cessation or  
23 realisation would not be reflected in an amount being  
24 included in the assessable income of the AIV (other  
25 than under Part 3-1 or 3-3); and

26 (iii) the loss (if any) on the disposal, cessation or realisation  
27 would not be reflected in an amount being deductible by  
28 the AIV.

29 (2) For the purposes of this Act, treat the disposal, cessation of  
30 ownership or realisation of the asset in the same way as the  
31 disposal, cessation of ownership or realisation of a \*revenue asset.

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## Schedule 5—Withholding

### *Income Tax Assessment Act 1936*

#### **1 Subsection 128AF(1A)**

After “AMIT”, insert “, or a CCIV that has an attribution sub-fund,”.

#### **2 Subsection 128AF(1A) (note)**

After “AMITs”, insert “and CCIVs that have attribution sub-funds”.

### *Income Tax Assessment Act 1997*

#### **3 Subdivision 840-M (heading)**

Omit “**Managed investment trust**”, substitute “**Investment vehicle**”.

#### **4 Section 840-800**

After “a withholding MIT”, insert “or a withholding CCIV”.

#### **5 Section 840-805 (heading)**

Omit “**managed investment trust**”, substitute “**investment vehicle**”.

#### **6 Subsection 840-805(1) (note 1)**

Repeal the note, substitute:

Note 1: The tax, which is called investment vehicle withholding tax, is imposed by the *Income Tax (Investment Vehicle Withholding Tax) Act 2008* and the rate of the tax is set out in that Act.

#### **7 Subsection 840-805(1) (note 2)**

After “AMITs”, insert “, and attribution sub-funds of CCIVs”.

#### **8 Subsection 840-805(2) (at the end of the heading)**

Add “*or withholding CCIVs*”.

#### **9 Paragraph 840-805(2)(a)**

Repeal the paragraph, substitute:

(a) you are paid an amount, or an amount is applied or dealt with as you direct:

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- 
- 1 (i) from a trust that is a \*withholding MIT in relation to an  
2 income year; or  
3 (ii) from a \*withholding CCIV for an income year; and

## 10 Paragraph 840-805(2)(c)

4 Repeal the paragraph, substitute:

5 (c) in respect of the fund payment part, you are:

- 6 (i) if the fund payment part is paid, applied or dealt with  
7 from a withholding MIT—a beneficiary (but not a  
8 beneficiary in the capacity of a trustee of another trust);  
9 or  
10 (ii) if the fund payment part is paid, applied or dealt with  
11 from a \*withholding CCIV—a \*member of the CCIV  
12 (but not a member in the capacity of a trustee of a trust);  
13 and  
14

## 11 Paragraph 840-805(3)(b)

15 Repeal the paragraph, substitute:

- 16 (b) all or part of that amount (the *fund payment part*) is  
17 reasonably attributable to a \*fund payment in relation to an  
18 income year from:  
19 (i) a trust that is a \*withholding MIT in relation to that  
20 year; or  
21 (ii) a \*withholding CCIV for that year; and  
22

## 12 Paragraph 840-805(3)(c)

23 Before “you”, insert “in a case where the fund payment part is  
24 reasonably attributable to a payment from a withholding MIT—”.

## 13 Paragraph 840-805(4)(a)

25 After “a \*withholding MIT”, insert “, a \*withholding CCIV”.

## 14 Paragraph 840-805(4)(b)

26 Repeal the paragraph, substitute:

- 27 (b) all or part of that share (also the *fund payment part*) is  
28 reasonably attributable to a payment that is a \*fund payment  
29 in relation to an income year made:  
30 (i) from a trust that is a \*withholding MIT in relation to that  
31 year; or  
32 (ii) from a \*withholding CCIV for that year; and  
33  
34  
35
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## 15 Paragraph 840-805(4)(c)

Before “you”, insert “in a case where the fund payment part is reasonably attributable to a payment from a withholding MIT—”.

## 16 Subsection 840-805(4A)

Omit “subsections (2), (3) and (4)”, substitute “paragraphs (2)(c), (3)(c) and (4)(c)”.

## 17 Subsection 840-805(4D)

Repeal the subsection.

## 18 Before subsection 840-805(4E)

Insert:

*Taxed part of payment from withholding MIT or withholding CCIV to be disregarded*

## 19 Paragraph 840-805(4E)(a)

Omit “because of the operation of subsection (4D)”, substitute “that is all or part of an amount paid, applied or dealt with by a \*withholding MIT or \*withholding CCIV”.

## 20 Section 840-810 (heading)

Omit “**managed investment trust**”, substitute “**investment vehicle**”.

## 21 Subsection 840-810(1)

Omit “\*Managed investment trust withholding tax”, substitute “\*Investment vehicle withholding tax”.

## 22 Subsection 840-810(2)

Omit “\*managed investment trust withholding tax”, substitute “\*investment vehicle withholding tax”.

## 23 Paragraph 840-810(3)(a)

Omit “\*managed investment trust withholding tax”, substitute “\*investment vehicle withholding tax”.

## 24 Subsections 840-810(4) and 840-815(1)

Omit “\*managed investment trust withholding tax”, substitute “\*investment vehicle withholding tax”.

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## 25 Paragraph 840-815(2)(a)

Omit “\*managed investment trust withholding tax”, substitute  
“\*investment vehicle withholding tax”.

## *Taxation Administration Act 1953*

## 26 Subsection 8AAB(4) (table item 18, column 3)

Omit “managed investment trust withholding tax”, substitute  
“investment vehicle withholding tax”.

## 27 Subdivision 12-H in Schedule 1 (heading)

Repeal the heading, substitute:

## **Subdivision 12-H—Distributions of income of withholding MITs and withholding CCIVs**

## 28 Section 12-375 in Schedule 1

After “withholding MIT” (wherever occurring), insert “or a withholding  
CCIV”.

## 29 Section 12-375 in Schedule 1

Before “whether the trust”, insert “(in the case of a withholding MIT)”.

## 30 After section 12-383 in Schedule 1

Insert:

## **12-384 Meaning of *withholding CCIV***

An entity is a *withholding CCIV* in relation to an income year if:

- (a) the entity is a \*CCIV that has one or more \*attribution sub-funds for the income year; and
- (b) in relation to each \*attribution sub-fund of the entity—a substantial proportion of the investment management activities carried out in relation to the sub-fund, in respect of all of the following assets of the entity that are allocated to the sub-fund, are carried out in Australia throughout the income year:
  - (i) assets that are situated in Australia at any time in the income year;

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- 
- 1 (ii) assets that are \*taxable Australian property at any time  
2 in the income year;
- 3 (iii) assets that are \*shares, units or interests listed for  
4 quotation in the official list of an \*approved stock  
5 exchange in Australia at any time in the income year.

6 **31 Section 12-385 in Schedule 1 (at the end of the heading)**

7 Add “and withholding CCIVs”.

8 **32 Subsection 12-385(1) in Schedule 1**

9 After “an income year”, insert “, or a \*withholding CCIV in relation to  
10 an income year.”.

11 **33 Subsection 12-385(1) in Schedule 1 (note 2)**

12 After “trustee”, insert “or CCIV”.

13 **34 Subsection 12-385(2) in Schedule 1**

14 After “trustee”, insert “or \*CCIV”.

15 **35 Subsection 12-385(5) in Schedule 1**

16 Repeal the subsection, substitute:

17 (5) This section does not apply to an amount paid:

18 (a) from a \*withholding MIT; or

19 (b) from a \*withholding CCIV;

20 to the extent that no \*investment vehicle withholding tax is payable  
21 in respect of the payment or an amount reasonably attributable to  
22 the payment.

23 **36 Subsection 12-390(1) in Schedule 1 (note 1)**

24 Repeal the note, substitute:

25 Note 1: The covered part referred to in paragraph (1)(a) is attributable to a  
26 fund payment made by a withholding MIT or withholding CCIV, or 2  
27 or more fund payments made by one or more withholding MITs or  
28 withholding CCIVs. (Any such withholding MIT may be an AMIT.)

29 **37 Subsection 12-390(4) in Schedule 1**

30 After “a \*withholding MIT”, insert “, a \*withholding CCIV”.

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## 38 Subsection 12-390(4) in Schedule 1 (note 1)

Repeal the note, substitute:

Note 1: The covered part referred to in paragraph (4)(a) is attributable to a fund payment made by a managed investment trust or CCIV, or 2 or more fund payments made by one or more managed investment trusts or CCIVs. (Any such managed investment trust may be an AMIT.)

## 39 Paragraph 12-390(10)(b) in Schedule 1

Omit “\*managed investment trust withholding tax”, substitute “\*investment vehicle withholding tax”.

## 40 Subsection 12-395(1) in Schedule 1 (heading)

After “*Withholding MITs*”, insert “, *withholding CCIVs*”.

## 41 Subsection 12-395(1) in Schedule 1

After “\*withholding MIT”, insert “, \*withholding CCIV”.

## 42 Paragraph 12-395(3)(b) in Schedule 1

After “\*withholding MIT”, insert “or \*withholding CCIV”.

## 43 Subsection 12-395(4) in Schedule 1

After “\*withholding MIT”, insert “, \*withholding CCIV”.

## 44 Paragraph 12-395(6)(b) in Schedule 1

After “\*withholding MIT”, insert “or \*withholding CCIV”.

## 45 At the end of section 12-395 in Schedule 1

Add:

(7) Paragraphs (3)(aa) and (6)(aa) do not apply in relation to a payment that is not, or is not attributable to, a \*fund payment from a \*withholding MIT.

## 46 Division 12A in Schedule 1 (heading)

After “AMITs”, insert “and CCIVs”.

## 47 Section 12A-1 in Schedule 1

Omit “gives a member an AMMA statement, the trustee”, substitute “, or a CCIV, gives a member an AIVMA statement, the trustee or CCIV”.



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1 **48 Section 12A-1 in Schedule 1**

2 After “AMIT trustees”, insert “, CCIVs”.

3 **49 Subdivision 12A-A in Schedule 1 (heading)**

4 Repeal the heading, substitute:

5 **Subdivision 12A-A—Distributions by AIVs relating to**  
6 **dividends, interest and royalties**

7 **50 Section 12A-5 in Schedule 1**

8 After “AMIT trustees”, insert “, CCIVs”.

9 **51 Subsection 12A-10(1) in Schedule 1**

10 After “\*AMIT”, insert “or is a \*CCIV”.

11 **52 Subsection 12A-10(1) in Schedule 1 (note)**

12 After “trustee”, insert “or CCIV”.

13 **53 Paragraph 12A-10(2)(b) in Schedule 1**

14 After “\*AMIT”, insert “or a \*CCIV”.

15 **54 Paragraph 12A-10(3)(b) in Schedule 1**

16 Omit “\*post-AMMA actual payment”, substitute “\*post-AIVMA actual  
17 payment”.

18 **55 Subsection 12A-10(3) in Schedule 1 (note)**

19 Omit “trustee of the AMIT concerned and the custodian”, substitute  
20 “trustee or CCIV, and the custodian,”.

21 **56 Section 12A-15 in Schedule 1 (heading)**

22 After “AMIT”, insert “or CCIV”.

23 **57 Subsection 12A-15(1) in Schedule 1 (heading)**

24 After “AMITs”, insert “, CCIVs”.

25 **58 Subsection 12A-15(1) in Schedule 1**

26 After “\*AMIT”, insert “, a \*CCIV”.

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1 **59 Subparagraph 12A-15(1)(c)(ii) in Schedule 1**

2 Omit “\*pre-AMMA actual payment”, substitute “\*pre-AIVMA actual  
3 payment”.

4 **60 Paragraph 12A-15(3)(b) in Schedule 1**

5 After “\*AMIT”, insert “or \*CCIV”.

6 **61 Subsection 12A-15(4) in Schedule 1**

7 After “\*AMIT”, insert “, a \*CCIV”.

8 **62 Subparagraph 12A-15(4)(e)(ii) in Schedule 1**

9 Omit “\*pre-AMMA actual payment”, substitute “\*pre-AIVMA actual  
10 payment”.

11 **63 Paragraph 12A-15(6)(b) in Schedule 1**

12 After “\*AMIT”, insert “or \*CCIV”.

13 **64 Section 12A-25 in Schedule 1**

14 Repeal the section, substitute:

15 **12A-25 Meaning of *AIV DIR* payment**

16 An *AIV DIR* payment means any of the following:

- 17 (a) an \*AIV dividend payment;  
18 (b) an \*AIV interest payment;  
19 (c) an \*AIV royalty payment.

20 **65 Section 12A-30 in Schedule 1 (heading)**

21 Repeal the heading, substitute:

22 **12A-30 Meaning of *AIV dividend* payment**

23 **66 Subsection 12A-30(1) in Schedule 1**

24 After “\*AMIT”, insert “, or an \*attribution sub-fund of a \*CCIV,”.

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## 67 Subsection 12A-30(2) in Schedule 1

Omit “the \*AMIT dividend payments that the trustee of the \*AMIT makes in relation to the income year”, substitute “the \*AIV dividend payments made in relation to the income year by the trustee of the \*AMIT, or by the \*CCIV in relation to the \*attribution sub-fund,”.

## 68 Subsection 12A-30(3) in Schedule 1

After “\*AMIT”, insert “or \*attribution sub-fund”.

## 69 Subsection 12A-30(4) in Schedule 1

Omit “that the trustee of a trust makes in relation to an income year is an *AMIT dividend payment*”, substitute “made in relation to an income year by the trustee of the \*AMIT, or by the \*CCIV in relation to the \*attribution sub-fund, is an *AIV dividend payment*”.

## 70 Subsection 12A-30(4) in Schedule 1

Omit “the AMIT dividend payment”, substitute “the AIV dividend payment”.

## 71 Subsection 12A-30(4) in Schedule 1 (note)

After “trustee”, insert “or CCIV”.

## 72 Subsection 12A-30(4) in Schedule 1 (method statement, step 2)

Omit “*AMIT dividend payment*”, substitute “*AIV dividend payment*”.

## 73 Subsection 12A-30(4) in Schedule 1 (method statement, step 2, paragraphs (b) and (c))

Repeal the paragraphs, substitute:

- |   |
|---|
| <p>(b) the amounts of any earlier AIV dividend payments made in relation to the income year by the trustee, or by the *CCIV in relation to the *attribution sub-fund; and</p> <p>(c) the expected amounts of any later AIV dividend payments that the trustee, or the *CCIV in relation to the *attribution sub-fund, expects to make in relation to the income year.</p> |
|---|

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## 74 Subsection 12A-30(5) in Schedule 1

Omit “\*AMIT dividend payments are to be worked out on the basis of the trustee’s knowledge”, substitute “\*AIV dividend payments are to be worked out on the basis of the knowledge of the trustee or \*CCIV”.

## 75 Subsection 12A-30(7) in Schedule 1

Omit “*AMIT dividend payment*”, substitute “*AIV dividend payment*”.

## 76 Paragraph 12A-30(7)(a) in Schedule 1

Omit “\*post-AMMA actual payment”, substitute “\*post-AIVMA actual payment”.

## 77 Paragraph 12A-30(7)(c) in Schedule 1

Omit “AMIT dividend payment”, substitute “AIV dividend payment”.

## 78 Section 12A-35 in Schedule 1 (heading)

Repeal the heading, substitute:

### 12A-35 Meaning of *AIV interest payment*

## 79 Subsection 12A-35(1) in Schedule 1

After “\*AMIT”, insert “, or an \*attribution sub-fund of a \*CCIV,”.

## 80 Subsection 12A-35(2) in Schedule 1

Omit “the \*AMIT interest payments that the trustee of the \*AMIT makes in relation to the income year”, substitute “the \*AIV interest payments made in relation to the income year by the trustee of the \*AMIT, or by the \*CCIV in relation to the \*attribution sub-fund,”.

## 81 Subsection 12A-35(3) in Schedule 1

After “\*AMIT”, insert “or \*attribution sub-fund”.

## 82 Subsection 12A-35(4) in Schedule 1

Omit “*AMIT interest payment*”, substitute “*AIV interest payment*”.

## 83 Paragraph 12A-35(4)(a) in Schedule 1

Repeal the paragraph, substitute:

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1 (a) treat references in those subsections to AIV dividend  
2 payments as instead being references to AIV interest  
3 payments; and

4 **84 Section 12A-40 in Schedule 1 (heading)**

5 Repeal the heading, substitute:

6 **12A-40 Meaning of *AIV royalty payment***

7 **85 Subsection 12A-40(1) in Schedule 1**

8 After “\*AMIT”, insert “, or an \*attribution sub-fund of a \*CCIV,”.

9 **86 Subsection 12A-40(2) in Schedule 1**

10 Omit “the \*AMIT royalty payments that the trustee of the \*AMIT makes  
11 in relation to the income year”, substitute “the \*AIV royalty payments  
12 made in relation to the income year by the trustee of the \*AMIT, or by  
13 the \*CCIV in relation to the \*attribution sub-fund,”.

14 **87 Subsection 12A-40(3) in Schedule 1**

15 After “\*AMIT”, insert “or \*attribution sub-fund”.

16 **88 Subsection 12A-40(4) in Schedule 1**

17 Omit “*AMIT royalty payment*”, substitute “*AIV royalty payment*”.

18 **89 Paragraph 12A-40(4)(a) in Schedule 1**

19 Repeal the paragraph, substitute:

20 (a) treat references in those subsections to AIV dividend  
21 payments as instead being references to AIV royalty  
22 payments; and

23 **90 Subdivision 12A-B in Schedule 1 (heading)**

24 After “AMITs”, insert “and CCIVs”.

25 **91 Section 12A-100 in Schedule 1**

26 After “AMIT trustees”, insert “, CCIVs”.

27 **92 Subsection 12A-105(1) in Schedule 1**

28 After “trustee”, insert “or \*CCIV”.

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**93 Subsection 12A-105(1) in Schedule 1 (note)**

After “trustee”, insert “or CCIV”.

**94 Paragraph 12A-105(2)(b) in Schedule 1**

Omit “\*post-AMMA actual payment”, substitute “\*post-AIVMA actual payment”.

**95 Subsection 12A-105(2) (note)**

Repeal the note, substitute:

Note: The trustee or CCIV (as the case requires), or the custodian, (or both) may have to pay the Commissioner an amount in respect of the deemed payment (see Subdivision 12A-C).

**96 Paragraph 12A-105(3)(b) in Schedule 1**

Omit “\*post-AMMA actual payment”, substitute “\*post-AIVMA actual payment”.

**97 Section 12A-110 in Schedule 1 (heading)**

After “AMITs”, insert “and CCIVs”.

**98 Subsection 12A-110(1) in Schedule 1**

After “\*AMIT”, insert “, or an \*attribution sub-fund of a \*CCIV,”.

**99 Subsection 12A-110(2) in Schedule 1**

Omit “that the trustee of a trust makes in relation to the income year”, substitute “made in relation to the income year by the trustee of the \*AMIT, or by the \*CCIV in relation to the \*attribution sub-fund,”.

**100 Paragraph 12A-110(3)(a) in Schedule 1**

After “\*AMIT”, insert “or \*attribution sub-fund”.

**101 Paragraph 12A-110(3)(b) in Schedule 1**

After “\*AMIT”, insert “, or attributable to the \*attribution sub-fund,”.

**102 Subsection 12A-110(5) in Schedule 1**

Omit “that the trustee of a trust makes in relation to an income year”, substitute “made in relation to an income year by the trustee of the \*AMIT, or by the \*CCIV in relation to the \*attribution sub-fund,”.

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1 **103 Subsection 12A-110(5) in Schedule 1 (note)**

2 After “trustee”, insert “or CCIV”.

3 **104 Subsection 12A-110(5) in Schedule 1 (method statement,**  
4 **step 2)**

5 After “trust”, insert “or \*CCIV”.

6 **105 Subsection 12A-110(5) in Schedule 1 (method statement,**  
7 **step 3, paragraphs (c) and (d))**

8 Repeal the paragraphs, substitute:

- |    |     |   |
|----|-----|---|
| 9  | (c) | the amounts of any earlier fund payments made in      |
| 10 |     | relation to the income year by the trustee, or by the |
| 11 |     | *CCIV in relation to the *attribution sub-fund; and   |
| 12 | (d) | the expected amounts of any later fund payments       |
| 13 |     | that the trustee, or the *CCIV in relation to the     |
| 14 |     | *attribution sub-fund, expects to make in relation    |
| 15 |     | to the income year.                                   |

16 **106 Subsection 12A-110(6) in Schedule 1**

17 Omit “the trustee’s knowledge”, substitute “the knowledge of the  
18 trustee or \*CCIV”.

19 **107 Paragraph 12A-110(8)(a) in Schedule 1**

20 Omit “\*post-AMMA actual payment”, substitute “\*post-AIVMA actual  
21 payment”.

22 **108 Paragraph 12A-110(10)(a) in Schedule 1**

23 After “\*AMIT”, insert “or \*attribution sub-fund”.

24 **109 Paragraph 12A-110(10)(a) in Schedule 1**

25 Omit “AMMA statements”, substitute “AIVMA statements”.

26 **110 Paragraph 12A-110(10)(b) in Schedule 1**

27 After “trustee” (first occurring), insert “or \*CCIV”.

28 **111 Paragraph 12A-110(10)(b) in Schedule 1**

29 After “trustee” (second occurring), insert “or CCIV”.

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## 112 Subdivision 12A-C in Schedule 1 (heading)

After “AMITs”, insert “or CCIVs”.

## 113 Section 12A-200 in Schedule 1

Omit “gives a member an AMMA statement, the trustee”, substitute “, or a CCIV gives a member an AIVMA statement, the trustee or CCIV”.

## 114 Section 12A-205 in Schedule 1 (heading)

Omit “AMMA statement”, substitute “AIVMA statement”.

## 115 Subsection 12A-205(1) in Schedule 1

Repeal the subsection, substitute:

(1) This section applies if:

(a) an entity (the *first recipient*) is or was a \*member of:

(i) a \*withholding MIT; or

(ii) an \*attribution sub-fund of a \*withholding CCIV;  
in respect of an income year; and

(b) in a case where subparagraph (a)(i) applies—the withholding MIT is an \*AMIT for the income year; and

(c) the first recipient is given an \*AIVMA statement for the income year.

## 116 Paragraph 12A-205(2)(a) in Schedule 1

Repeal the paragraph, substitute:

(a) treat the trustee of the AMIT, or the \*CCIV, as having made a payment (the *first deemed payment*) of an amount to the first recipient at the time the first recipient was given the \*AIVMA statement; and

## 117 Subparagraph 12A-205(2)(b)(i) in Schedule 1

After “AMIT”, insert “or \*attribution sub-fund”.

## 118 Subparagraph 12A-205(2)(b)(ii) in Schedule 1

Omit “\*pre-AMMA actual payments”, substitute “\*pre-AIVMA actual payments”.

## 119 Subparagraph 12A-205(2)(b)(ii) in Schedule 1

After “trustee”, insert “or CCIV”.

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# EXPOSURE DRAFT

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1 **120 Subparagraph 12A-205(2)(b)(iii) in Schedule 1**

2 Omit “\*AMIT DIR payment”, substitute “\*AIV DIR payment”.

3 **121 Subparagraph 12A-205(2)(b)(iii) in Schedule 1**

4 Omit “pre-AMMA actual payment”, substitute “pre-AIVMA actual  
5 payment”.

6 **122 Subparagraph 12A-205(2)(b)(iv) in Schedule 1**

7 Omit “AMIT DIR payment”, substitute “AIV DIR payment”.

8 **123 Subsection 12A-205(3) in Schedule 1**

9 Omit “\*AMMA statement”, substitute “\*AIVMA statement”.

10 **124 Section 12A-210 in Schedule 1 (heading)**

11 Repeal the heading, substitute:

12 **12A-210 Post-AIVMA actual payment and pre-AIVMA actual  
13 payment in respect of deemed payment**

14 **125 Subsection 12A-210(1) in Schedule 1**

15 Omit “*post-AMMA actual payment*”, substitute “*post-AIVMA actual  
16 payment*”.

17 **126 Paragraph 12A-210(1)(a) in Schedule 1**

18 After “\*AMIT”, insert “or \*attribution sub-fund”.

19 **127 Subsection 12A-210(2) in Schedule 1**

20 Omit “*pre-AMMA actual payment*”, substitute “*pre-AIVMA actual  
21 payment*”.

22 **128 Paragraph 12A-210(2)(a) in Schedule 1**

23 After “\*AMIT”, insert “or \*attribution sub-fund”.

24 **129 Section 12A-215 in Schedule 1 (heading)**

25 Omit “AMIT payment”, substitute “AIV payment”.

26 **130 Subsection 12A-215(1) in Schedule 1**

27 After “income year” (first occurring), insert “, or a \*CCIV,”.

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# EXPOSURE DRAFT

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- 1 **131 Paragraph 12A-215(1)(a) in Schedule 1**  
2 After “\*withholding MIT”, insert “, or the CCIV is a \*withholding  
3 CCIV,”.
- 4 **132 Paragraph 12A-215(1)(b) in Schedule 1**  
5 After “trustee”, insert “or CCIV”.
- 6 **133 Subparagraph 12A-215(1)(c)(ii) in Schedule 1**  
7 Omit “\*AMIT DIR payment”, substitute “\*AIV DIR payment”.
- 8 **134 Subsection 12A-215(1) in Schedule 1 (note 2)**  
9 After “trustee”, insert “or CCIV”.
- 10 **135 Paragraphs 12A-215(2)(b) and (3)(c) in Schedule 1**  
11 Omit “\*AMIT DIR payment”, substitute “\*AIV DIR payment”.
- 12 **136 Subparagraph 12A-215(3)(c)(i) in Schedule 1**  
13 Omit “the trust had been a company, and it had paid it as a dividend”,  
14 substitute “it had been paid as a dividend, and (if the payer was a  
15 trustee) the trust had been a company”.
- 16 **137 Paragraph 12A-215(3)(d) in Schedule 1**  
17 Omit “AMIT DIR payment”, substitute “AIV DIR payment”.
- 18 **138 Subsection 12A-215(4) in Schedule 1**  
19 After “trustee” (first occurring), insert “or \*CCIV”.
- 20 **139 Subsection 12A-215(4) in Schedule 1**  
21 After “trustee” (second occurring), insert “or CCIV”.
- 22 **140 Subsection 12A-215(5) in Schedule 1**  
23 After “trustee” (first occurring), insert “or \*CCIV”.
- 24 **141 Subsection 12A-215(5) in Schedule 1**  
25 After “trustee” (second and third occurring), insert “or CCIV”.
- 26 **142 Paragraph 12A-220(1)(a) in Schedule 1**  
27 After “income year” (first occurring), insert “, or a \*CCIV,”.
-

# EXPOSURE DRAFT

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1 **143 Subparagraph 12A-220(1)(a)(ii) in Schedule 1**

2 Omit “\*AMIT DIR payment”, substitute “\*AIV DIR payment”.

3 **144 Subparagraphs 12A-220(1)(d)(ii) and (e)(ii) in Schedule 1**

4 Omit “AMIT DIR payment”, substitute “AIV DIR payment”.

5 **145 Subsection 12A-220(1) in Schedule 1 (note 2)**

6 After “trustee”, insert “or CCIV”.

7 **146 Paragraphs 12A-220(2)(b) and (3)(c) in Schedule 1**

8 Omit “\*AMIT DIR payment”, substitute “\*AIV DIR payment”.

9 **147 Paragraph 12A-220(3)(d) in Schedule 1**

10 Omit “AMIT DIR payment”, substitute “AIV DIR payment”.

11 **148 Subsections 16-195(3) and 18-35(1A) in Schedule 1**

12 Omit “\*managed investment trust withholding tax”, substitute  
13 “\*investment vehicle withholding tax”.

14 **149 Paragraph 18-35(1A)(e) in Schedule 1**

15 Omit “managed investment trust withholding tax”, substitute  
16 “investment vehicle withholding tax”.

17 **150 Subsection 250-10(2) in Schedule 1 (table items 39A and**  
18 **39B, column headed “Topic”)**

19 Omit “managed investment trust withholding tax”, substitute  
20 “investment vehicle withholding tax”.

# EXPOSURE DRAFT

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## Schedule 6—Restructures

### *Income Tax Assessment Act 1997*

#### **1 Subsection 40-340(1) (after table item 2A)**

Insert:

2B	Disposal of asset of an *AMIT to a *CCIV under an AMIT restructure relating to *attribution sub-fund	Both the *AMIT and the *CCIV choose to apply Subdivision 276-I to the restructure and, just after the disposal, the asset is referable to the *attribution sub-fund.
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#### **2 Section 104-5 (table item J4, column headed “Event number and description”)**

After “Subdivision 124-N”, insert “or 276-I”.

#### **3 Paragraphs 104-195(1)(a) and (2)(a)**

After “Subdivision 124-N”, insert “or 276-I”.

#### **4 Subparagraphs 104-195(2)(b)(i) and (ii)**

Repeal the subparagraphs, substitute:

- (i) if the trust is not an \*AMIT—within 6 months after the start of the \*trust restructuring period or, if that is not possible because of circumstances outside the control of the trustee, as soon as practicable after the end of that 6 month period; or
- (ii) if the trust is an AMIT—within 6 months after the start of the \*AMIT restructuring period or, if that is not possible because of circumstances outside the control of the trustee, as soon as practicable after the end of that 6 month period; and

#### **5 Section 112-45 (table item J4, column headed “In this situation:”)**

After “Subdivision 124-N”, insert “or 276-I”.

#### **6 Section 112-115 (after table item 14B)**

Insert:

# EXPOSURE DRAFT

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14BA Exchange of shares in an excluded sub-fund of a Subdivision 124-NA  
CCIV for shares in another company

1 **7 Section 112-115 (after table item 14C)**

2 Insert:

3

14CA Exchange of an interest in an AMIT for shares Subdivision 276-I  
in an attribution sub-fund of a CCIV

4 **8 At the end of paragraph 115-34(1)(c)**

5 Add:

6 ; or (iv) a replacement-asset roll-over under Subdivision 276-I  
7 (disposal of assets by an \*AMIT in restructuring as an  
8 \*attribution sub-fund of a \*CCIV) for which a trust of  
9 which you were a beneficiary disposed of all of its CGT  
10 assets to the CCIV.

11 **9 After subparagraph 124-20(3)(a)(iv)**

12 Insert:

13 (iva) Subdivision 124-NA (Excluded sub-funds restructuring  
14 as companies);

15 **10 After subparagraph 124-20(3)(a)(v)**

16 Insert:

17 (va) Subdivision 276-I (Attribution managed investment  
18 trusts restructuring as attribution sub-funds);

19 **11 At the end of section 124-855 (after the example)**

20 Add:

21 (3) A roll-over is not available under this Subdivision if the transferee  
22 is a \*CCIV.

23 Note: Subdivision 276-I provides for roll-overs from an AMIT to an  
24 attribution sub-fund of a CCIV.

25 **12 After Subdivision 124-N**

26 Insert:

# EXPOSURE DRAFT

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## Subdivision 124-NA—Disposal to a company of assets referable to an excluded sub-fund

### Guide to Subdivision 124-NA

#### 124-935 What this Subdivision is about

Entities can choose to obtain a roll-over if a CCIV disposes of all its assets, to another company, that are referable to an excluded sub-fund.

#### Table of sections

##### Operative provisions

124-940	What this Subdivision deals with
124-945	Requirements for roll-over
124-950	Roll-over for owner of shares that are referable to the excluded sub-fund
124-955	CGT consequences for the CCIV and the transferee

#### Operative provisions

##### 124-940 What this Subdivision deals with

This Subdivision applies to a restructure (an *excluded sub-fund restructure*) in relation to an \*excluded sub-fund of a \*CCIV if:

- (a) under the restructure, the CCIV disposes of assets to another company (the *transferee*); and
- (b) the assets are all of the assets of the CCIV that are \*referable to the sub-fund; and
- (c) both the CCIV and the transferee choose to apply this Subdivision to the restructure; and
- (d) the requirements in section 124-945 are met.

##### 124-945 Requirements for roll-over

- (1) All of the \*CGT assets owned by the \*CCIV that are \*referable to the \*excluded sub-fund must be disposed of to the transferee during the \*excluded sub-fund restructuring period. However, ignore any assets that are retained by the CCIV to pay existing or expected debts of the CCIV that relate to the excluded sub-fund.

# EXPOSURE DRAFT

- 
- 1 (2) The *excluded sub-fund restructuring period* for an excluded  
2 sub-fund restructure:
- 3 (a) starts just before the first asset is \*disposed of to the  
4 transferee under the excluded sub-fund restructure; and
- 5 (b) ends when the last asset of the \*CCIV that is \*referable to the  
6 \*excluded sub-fund is disposed of to the transferee.
- 7 (3) The transferee must be a company that:
- 8 (a) has never carried on commercial activities; and
- 9 (b) has no \*CGT assets, other than any or all of the following:
- 10 (i) small amounts of cash or debt;
- 11 (ii) the transferee's rights under an \*arrangement, if  
12 (collectively) those rights only facilitate the transfer of  
13 assets to the transferee from the transferor; and
- 14 (c) has no losses of any kind; and
- 15 (d) is not a \*CCIV.
- 16 Example: It could be a shelf company.
- 17 (4) Just after the end of the \*excluded sub-fund restructuring period:
- 18 (a) each entity that, just before the start of that period, owned  
19 \*shares in the \*CCIV that were \*referable to the \*excluded  
20 sub-fund must own \*shares in the transferee that are in the  
21 same proportion as it owned those shares in the CCIV; and
- 22 (b) the \*market value of the shares each of those entities owns in  
23 the transferee must be at least substantially the same as the  
24 market value, just before the start of that period, of the shares  
25 it owned in the CCIV that were referable to the excluded  
26 sub-fund.
- 27 Note: See section 124-20 if an entity uses an interest sale facility.
- 28 (5) For the purposes of subsection (4), ignore any \*shares in the  
29 transferee that:
- 30 (a) just before the start of the \*excluded sub-fund restructuring  
31 period, were owned by entities who together owned no more  
32 than 5 shares; and
- 33 (b) just after the end of that period, represented such a low  
34 percentage of the total \*market value of all the shares that it is  
35 reasonable to treat other entities as if they owned all the  
36 shares in the transferee.
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# EXPOSURE DRAFT

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## 124-950 Roll-over for owner of shares that are referable to the excluded sub-fund

- 1  
2
- 3 (1) You are taken to obtain a roll-over, for each of the \*shares in the  
4 \*CCIV that are \*referable to the \*excluded sub-fund (your *original*  
5 *interests*), if:
- 6 (a) the ownership of all your original interests ends under the  
7 excluded sub-fund restructure in exchange for shares in the  
8 transferee (your *replacement interests*); and  
9 (b) either:
- 10 (i) you are an Australian resident; or  
11 (ii) the replacement interests are \*taxable Australian  
12 property just after their acquisition.
- 13 (2) However, you cannot make a \*capital loss from a \*CGT event that  
14 happens to your original interests during the \*excluded sub-fund  
15 restructuring period.

16 Note: This subsection prevents a capital loss arising on your shares after the  
17 assets that were referable to the excluded sub-fund have been disposed  
18 of to the transferee but before your shares are issued to you.

19 *Exception: trading stock*

- 20 (3) This section does not apply to your ownership of an original  
21 interest ending if:
- 22 (a) the interest was an item of your \*trading stock and the  
23 corresponding replacement interest becomes an item of your  
24 trading stock when you \*acquire it; or  
25 (b) the interest was not an item of your trading stock but the  
26 corresponding replacement interest becomes an item of your  
27 trading stock when you acquire it.

## 28 124-955 CGT consequences for the CCIV and the transferee

29 *Capital gains and losses disregarded*

- 30 (1) Any \*capital gain or \*capital loss from \*CGT event A1 happening  
31 to the \*CCIV under the excluded sub-fund restructure is  
32 disregarded.



# EXPOSURE DRAFT

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*Cost base is transferred*

- 1
- 2 (2) The first element of the \*cost base and \*reduced cost base (for the  
3 transferee) of each \*CGT asset that the transferee \*acquires under  
4 the excluded sub-fund restructure is the same as the cost base and  
5 reduced cost base of that asset (for the \*CCIV) just before that  
6 acquisition.

7 Note: For the cost base and reduced cost base of interests in the transferee,  
8 see Subdivision 124-A.

9 *Pre-CGT assets retain their status*

- 10 (3) If the \*CCIV \*acquired any of the \*CGT assets \*disposed of to the  
11 transferee under the excluded sub-fund restructure before  
12 20 September 1985, the transferee is taken to have acquired it  
13 before that day.

14 *Exception: trading stock*

- 15 (4) This section does not apply to a \*CGT asset if:  
16 (a) the asset was an item of \*trading stock of the \*CCIV and  
17 becomes an item of trading stock of the transferee; or  
18 (b) the asset was not an item of trading stock of the CCIV but  
19 becomes an item of trading stock of the transferee when the  
20 transferee \*acquires it.

21 **13 Section 165-5 (note)**

22 Omit “: see section 415-35”, substitute “(see section 415-35) and  
23 transfers from AMITs to CCIVs under an AMIT restructure (see  
24 section 276-482)”.

25 **14 After Subdivision 276-H**

26 Insert:

# EXPOSURE DRAFT

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## Subdivision 276-I—Attribution managed investment trusts restructuring as attribution sub-funds

### Guide to Subdivision 276-I

#### 276-470 What this Subdivision is about

Special rules apply to an AMIT restructuring as an attribution sub-fund of a CCIV, if the AMIT and the CCIV choose to apply this Subdivision and certain other requirements are met. The rules relate to:

- (a) roll-over relief for CGT assets, for both the AMIT and owner of units or interests in the AMIT; and
- (b) transferring the AMIT's revenue assets; and
- (c) transferring the AMIT's net capital losses; and
- (d) transferring the AMIT's tax losses; and
- (e) transferring the AMIT's unders and overs; and
- (f) carrying over the AMIT's choices and elections.

Note: The effect of the roll-over may be reversed if the AMIT does not cease to exist within 6 months: see section 104-195.

#### Table of sections

##### Operative provisions

276-472	What this Subdivision deals with
276-474	Roll-over for owner of units or interests in an AMIT
276-476	CGT consequences for the AMIT and the CCIV
276-478	Revenue assets
276-480	Transferring net capital losses
276-482	Transferring tax losses
276-484	Unders and overs
276-486	Choices and elections

#### Operative provisions

##### 276-472 What this Subdivision deals with

- (1) This Subdivision applies to a restructure (an *AMIT restructure*) in relation to an \*attribution sub-fund of a \*CCIV if:

# EXPOSURE DRAFT

- 
- 1 (a) under the restructure, an \*AMIT disposes of all of its assets to  
2 the CCIV for the sub-fund; and  
3 (b) both the AMIT and the CCIV choose to apply this  
4 Subdivision to the restructure; and  
5 (c) the requirements in subsections (2) to (7) are met.

6 *Requirements relating to the AMIT's assets and liabilities*

- 7 (2) All of the assets owned by the \*AMIT:  
8 (a) must be disposed of to the \*CCIV during the \*AMIT  
9 restructuring period; and  
10 (b) must, just after the disposal, be \*referable to the \*attribution  
11 sub-fund.

12 However, ignore any assets (*retained assets*) that are retained by  
13 the AMIT to pay existing or expected debts of the AMIT.

- 14 (3) All of the liabilities of the \*AMIT:  
15 (a) must be transferred to the \*CCIV during the \*AMIT  
16 restructuring period; and  
17 (b) must, just after the transfer, be \*referable to the \*attribution  
18 sub-fund.

19 However, ignore any liabilities that are to be satisfied from  
20 retained assets.

- 21 (4) The *AMIT restructuring period* for an AMIT restructure:  
22 (a) starts just before the first asset is \*disposed of to the \*CCIV  
23 under the AMIT restructure; and  
24 (b) ends when the last asset of the \*AMIT is disposed of to the  
25 CCIV.

26 *Requirements relating to the CCIV*

- 27 (5) The \*CCIV must, at the start of the \*AMIT restructuring period:  
28 (a) have no assets that are \*referable to the \*attribution sub-fund,  
29 other than any or all of the following:  
30 (i) small amounts of cash or debt;  
31 (ii) its rights under an \*arrangement, if (collectively) those  
32 rights only facilitate the transfer of assets to the CCIV  
33 from the \*AMIT; and  
34 (b) have no liabilities that are referable to the attribution  
35 sub-fund.

# EXPOSURE DRAFT

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## *Requirements relating to interests in the attribution sub-fund*

- 1
- 2 (6) Just after the end of the \*AMIT restructuring period:
- 3 (a) each entity that owned interests in an \*AMIT just before the
- 4 start of that period must own \*shares in the \*CCIV that:
- 5 (i) are \*referable to the \*attribution sub-fund; and
- 6 (ii) are in the same proportion as it owned those interests in
- 7 the AMIT; and
- 8 (b) the \*market value of the shares each of those entities owns in
- 9 the CCIV that are referable to the attribution sub-fund must
- 10 be at least substantially the same as the market value of the
- 11 interests it owned in the AMIT just before the start of that
- 12 period.

13 Note: See section 124-20 if an entity uses an interest sale facility.

- 14 (7) If, just before the start of the \*AMIT restructuring period, the
- 15 \*membership interests in the \*AMIT were divided into classes:
- 16 (a) the membership interests in the \*attribution sub-fund must be
- 17 divided into the same classes just after the end of the AMIT
- 18 restructuring period; and
- 19 (b) just after the end of the AMIT restructuring period, each class
- 20 of membership interests in the attribution sub-fund must have
- 21 the same owners as the corresponding class of membership
- 22 interests in the AMIT had just before the start of the AMIT
- 23 restructuring period.

## **276-474 Roll-over for owner of units or interests in an AMIT**

- 24
- 25 (1) You are taken to obtain a roll-over, for each of your units or
- 26 interests in the \*AMIT (your *original interests*), if:
- 27 (a) the ownership of all your original interests ends under the
- 28 AMIT restructure in exchange for \*shares in the CCIV (your
- 29 *replacement interests*); and
- 30 (b) either:
- 31 (i) you are an Australian resident; or
- 32 (ii) the replacement interests are \*taxable Australian
- 33 property just after their acquisition.

34 Note: The effect of the roll-over may be reversed if the transferor does not

35 cease to exist within 6 months: see section 104-195.

# EXPOSURE DRAFT

- 
- 1 (2) The consequences set out in Subdivision 124-A also apply to a  
2 roll-over under this Division as if that roll-over were a roll-over  
3 covered by Division 124 (about replacement-asset roll-overs).

4 Note: Those consequences generally involve:

- 5 (a) disregarding a capital gain or capital loss you make from the  
6 disposal, redemption or cancellation of your shares or units in the  
7 AMIT; and  
8 (b) working out the first element of the cost base of each of your new  
9 shares in the CCIV by reference to the cost bases of your shares  
10 or units in the AMIT.

- 11 (3) This section applies even if \*CGT event J4 applies.

- 12 (4) However, you cannot make a \*capital loss from a \*CGT event that  
13 happens to your original interests during the \*AMIT restructuring  
14 period.

15 Note: This subsection prevents a capital loss arising on your units or  
16 interests after the AMIT assets have been disposed of to the CCIV but  
17 before your shares are issued to you.

18 *Exception: trading stock*

- 19 (5) This section does not apply to your ownership of an original  
20 interest ending if:

- 21 (a) the interest was an item of your \*trading stock and the  
22 corresponding replacement interest becomes an item of your  
23 trading stock when you \*acquire it; or  
24 (b) the interest was not an item of your trading stock but the  
25 corresponding replacement interest becomes an item of your  
26 trading stock when you acquire it.

## 27 **276-476 CGT consequences for the AMIT and the CCIV**

28 *Capital gains and losses disregarded*

- 29 (1) Any \*capital gain or \*capital loss from \*CGT event A1 happening  
30 to the \*AMIT under the AMIT restructure is disregarded (even if  
31 \*CGT event J4 applies).

32 Note: The effect of the roll-over may be reversed if the AMIT does not cease  
33 to exist within 6 months: see section 104-195.

# EXPOSURE DRAFT

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## *Cost base is transferred*

- 1
- 2 (2) The first element of the \*cost base and \*reduced cost base (for the  
3 \*CCIV) of each \*CGT asset that the CCIV \*acquires under the  
4 AMIT restructure is the same as the cost base and reduced cost  
5 base of that asset (for the \*AMIT) just before that acquisition.

6 Note: For the cost base and reduced cost base of interests in the transferee,  
7 see Subdivision 124-A.

## *Pre-CGT assets retain their status*

- 8
- 9 (3) If the \*AMIT \*acquired any of the \*CGT assets \*disposed of to the  
10 \*CCIV under the trust restructure before 20 September 1985, the  
11 CCIV is taken to have acquired it before that day.
- 12 (4) However, subsection (3) is taken never to have applied to such an  
13 asset of the \*CCIV if subsection 104-195(4) (CGT event J4)  
14 applies to the CCIV in relation to the asset.

## *Exception: trading stock*

- 15
- 16 (5) This section does not apply to a \*CGT asset if:  
17 (a) the asset was an item of \*trading stock of the \*AMIT and  
18 becomes an item of trading stock of the \*CCIV; or  
19 (b) the asset was not an item of trading stock of the AMIT but  
20 becomes an item of trading stock of the CCIV when the  
21 CCIV \*acquires it.

## **276-478 Revenue assets**

### *Disposal*

- 22
- 23
- 24 (1) If the \*AMIT disposes of an asset to the \*CCIV under the AMIT  
25 restructure, and the asset is a \*revenue asset of the AMIT just  
26 before the disposal:  
27 (a) the AMIT is taken to have disposed of the asset to the CCIV  
28 for an amount such that the AMIT would not make a profit or  
29 a loss on the disposal; and  
30 (b) for the purpose of calculating any profit or loss on a future  
31 disposal of, cessation of owning, or other realisation of, the  
32 asset, the CCIV is taken to have paid the AMIT that amount  
33 for the disposal of the revenue asset to the CCIV.

# EXPOSURE DRAFT

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1 Note: Trading stock and depreciating assets are not revenue assets. See  
2 section 977-50.

3 *Ceasing to own or other realising*

4 (2) If the \*AMIT ceases to own, or otherwise realises, an asset under  
5 the AMIT restructure, and the asset is a \*revenue asset of the  
6 AMIT just before the disposal, the AMIT is taken to have disposed  
7 of the asset to the \*CCIV for an amount such that the AMIT would  
8 not make a profit or a loss on the disposal.

9 Note: Trading stock and depreciating assets are not revenue assets: see  
10 section 977-50.

## 11 **276-480 Transferring net capital losses**

12 (1) At the time (the *completion time*) the \*AMIT ceases to exist under  
13 the AMIT restructure, the following losses of the AMIT are  
14 transferred to the \*CCIV:

15 (a) each of its \*net capital losses for income years earlier than the  
16 income year for the AMIT that includes the completion time  
17 (the *transfer year*), to the extent that the net capital loss was  
18 not \*utilised before the completion time (an *earlier year net*  
19 *capital loss*);

20 (b) any net capital loss it would have made for the transfer year  
21 were the transfer year to have ended at the completion time (a  
22 *transfer year net capital loss*).

23 (2) To the extent that an earlier year net capital loss is transferred to  
24 the \*CCIV:

25 (a) the \*AMIT is taken not to have made the loss for that earlier  
26 income year; and

27 (b) an amount equal to the transferred amount is taken to be a  
28 \*capital loss made by the CCIV for the transfer year.

29 Note: Under section 195-105, in working out the CCIV's tax position, the  
30 capital loss would be treated as a capital loss of the attribution  
31 sub-fund to which the AMIT restructure relates.

32 (3) To the extent that a transfer year net capital loss is transferred to  
33 the \*CCIV:

34 (a) the sum of the \*AMIT's \*capital losses for the transfer year is  
35 reduced by an amount equal to the transferred amount; and

36 (b) an amount equal to the transferred amount is taken to be a  
37 capital loss made by the CCIV for the transfer year.

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# EXPOSURE DRAFT

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1 Note: Under section 195-105, in working out the CCIV's income tax  
2 position, the capital loss would be treated as a capital loss of the  
3 attribution sub-fund to which the AMIT restructure relates.

## 4 **276-482 Transferring tax losses**

5 (1) At the time (the *completion time*) the \*AMIT ceases to exist under  
6 the AMIT restructure, the following losses of the AMIT are  
7 transferred to the \*CCIV:

8 (a) any of its \*tax losses for income years earlier than the income  
9 year for the AMIT that includes the completion time (the  
10 *transfer year*), to the extent that it was not utilised before the  
11 completion time (an *earlier year tax loss*);

12 (b) any tax loss it would have incurred for the transfer year were  
13 the transfer year to have ended at the completion time (a  
14 *transfer year tax loss*).

15 (2) To the extent that an earlier year tax loss is transferred to the  
16 \*CCIV:

17 (a) the \*AMIT is taken not to have incurred the loss for that  
18 earlier income year; and

19 (b) for the purposes of section 36-15, an amount equal to the  
20 transferred amount is taken to be a \*tax loss incurred by the  
21 CCIV for the income year immediately prior to the transfer  
22 year; and

23 (c) despite subsection 165-12(1), 166-5(2) or 166-20(1), the  
24 \*ownership test period or \*test period under that subsection in  
25 relation to the loss starts at the start of that earlier income  
26 year; and

27 (d) for all other purposes of this Act, an amount equal to the  
28 transferred amount is taken to be a tax loss incurred by the  
29 CCIV for the transfer year.

30 Note: Under section 195-105, in working out the CCIV's income tax  
31 position, the tax loss would be treated as a tax loss of the attribution  
32 sub-fund to which the AMIT restructure relates.

33 (3) To the extent that a transfer year tax loss is transferred to the  
34 \*CCIV:

35 (a) the sum of the \*AMIT's deductions for the transfer year is  
36 reduced by an amount equal to the transferred amount; and

37 (b) an amount equal to the transferred amount is taken to be a  
38 \*tax loss incurred by the CCIV for the transfer year.



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Note: Under section 195-105, in working out the CCIV's income tax position, the tax loss would be treated as a tax loss of the attribution sub-fund to which the AMIT restructure relates.

## 276-484 Unders and overs

(1) If:

(a) the \*AMIT ceases to exist under the AMIT restructure in a particular income year (the *transfer year*); and

(b) either:

(i) the AMIT has an \*under or \*over of a character in the transfer year; or

(ii) if the AMIT had not ceased to exist, it would have had an under or over of a character in an income year later than the transfer year; and

(c) the under or over relates, or would relate, to an income year for the AMIT (the *base year*) that is earlier than the transfer year;

for the purposes of Subdivision 276-F, treat the under or over as an under or over of that character of the \*attribution sub-fund to which the AMIT restructure relates, in the transfer year or later income year, relating to the base year.

(2) If:

(a) had the under or over mentioned in subsection (1) been discovered before the transfer year, this Act would have operated to produce a particular effect for the base year in relation to the amount or amounts reflected in the under or over; and

(b) subsection (1) accounts for that effect;

treat this Act as not operating to produce that effect for the base year.

Note: Subsection (1) continues to operate in relation to the under or over.

## 276-486 Choices and elections

If:

(a) the \*AMIT made a choice or election under a \*taxation law before the time (the *completion time*) the AMIT ceases to exist under the AMIT restructure; and

(b) the choice or election was still in effect at the completion time;

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1 the \*CCIV is taken to have made the choice or election, in relation  
2 to the \*attribution sub-fund to which the AMIT restructure relates,  
3 at the start of the income year in which the \*AMIT restructuring  
4 period starts.

5 Note: Section 195-105 enables the CCIV to make a choice or election  
6 separately in relation to the sub-fund.

## 7 **15 At the end of Division 276**

8 Add:

### 9 **Subdivision 276-L—Ceasing to be an excluded sub-fund**

#### 10 **Guide to Subdivision 276-L**

#### 11 **276-950 What this Subdivision is about**

12 If the transferee in a restructure of an excluded sub-fund under  
13 Subdivision 124-NA discovers an under or over from an income  
14 year when the sub-fund was an attribution sub-fund, the under or  
15 over will have taxation consequences for the transferee in the  
16 discovery year.

#### 17 **Table of sections**

##### 18 **Operative provisions**

19	276-955	What this Subdivision deals with
20	276-960	Continue to work out AIV components, unders, overs etc.
21	276-965	Effect of increase
22	276-970	Effect of decrease

#### 23 **Operative provisions**

#### 24 **276-955 What this Subdivision deals with**

25 This Subdivision applies if:

- 26 (a) a \*sub-fund of a \*CCIV was an \*attribution sub-fund for an  
27 income year; and  
28 (b) during a later year (the *discovery year*), there is a company  
29 (the *transferee*) to which the CCIV disposed of assets under  
30 a restructure to which Subdivision 124-NA applied; and

# EXPOSURE DRAFT

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- 1 (c) the restructure happened during the discovery year or an  
2 earlier income year; and  
3 (d) the assets disposed of under the restructure were \*referable to  
4 the sub-fund.

## 5 **276-960 Continue to work out AIV components, unders, overs etc.**

- 6 (1) For the purposes of this section, assume that the transferee is the  
7 \*sub-fund mentioned in paragraph 276-955(a), and is an  
8 \*attribution sub-fund for the discovery year, as if the restructure  
9 had not happened.
- 10 (2) If the transferee has an \*under or \*over of a character in the  
11 discovery year, for the income year mentioned in  
12 paragraph 276-955(a) or an earlier income year, work out the  
13 extent to which the under or over:  
14 (a) increases the amount of the sub-fund's \*AIV component of  
15 that character for the discovery year; or  
16 (b) decreases the amount of the sub-fund's AIV component of  
17 that character for the discovery year.

## 18 **276-965 Effect of increase**

- 19 (1) This section applies if there is an increase as mentioned in  
20 paragraph 276-960(2)(a).
- 21 (2) If the character mentioned in subsection 276-960(2) relates to  
22 assessable income, treat the amount of the increase as assessable  
23 income of the transferee for the discovery year.
- 24 (3) If that character relates to \*exempt income, treat the amount of the  
25 increase as exempt income of the transferee for the discovery year.
- 26 (4) If that character relates to \*non-assessable non-exempt income,  
27 treat the amount of the increase as non-assessable non-exempt  
28 income of the transferee for the discovery year.
- 29 (5) If that character relates to a \*tax offset, treat the amount of the  
30 increase as a tax offset of the transferee for the discovery year of a  
31 kind corresponding to that character (in addition to any other tax  
32 offsets of that kind that the transferee may have for the discovery  
33 year).

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## 276-970 Effect of decrease

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- (1) This section applies if there is a decrease as mentioned in paragraph 276-960(2)(b).
- (2) If the character mentioned in subsection 276-960(2) relates to assessable income:
  - (a) in the case of a character of a \*capital gain—treat the amount of the decrease as a \*capital loss of the transferee for the discovery year; or
  - (b) in any other case—treat the amount of the decrease as a deduction of the transferee for the discovery year.
- (3) If that character relates to \*exempt income, treat the amount of the decrease as reducing the exempt income of the transferee for the discovery year.
- (4) If that character relates to \*non-assessable non-exempt income, treat the amount of the decrease as reducing the non-assessable non-exempt income of the transferee for the discovery year.
- (5) If that character relates to a \*tax offset, treat the amount of the decrease as reducing the tax offset or offsets (the existing offset or offsets) of the transferee for the discovery year of a kind corresponding to that character.
- (6) If that character relates to a \*tax offset and exceeds the total of the existing offset or offsets (before the reduction under subsection (5)):
  - (a) unless paragraph (b) applies—the transferee is liable to pay tax at the rate declared by the Parliament on the excess; or

Note: The tax is imposed by the *Income Tax (Attribution Investment Vehicles—Offsets) Act 2016* and the rate of the tax is set out in that Act.

  - (b) if that character is the character of \*foreign income tax paid that counts towards a tax offset under Division 770—subsection (7) applies.
- (7) Increase the transferee's assessable income for the discovery year by the sum of:
  - (a) the excess mentioned in subsection (6); and
  - (b) the product of:
    - (i) that excess; and

# EXPOSURE DRAFT

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1 (ii) the \*corporate tax gross-up rate.  
2 Treat the amount of that increase as assessable income from a  
3 source other than an \*Australian source.

4 **16 Subsection 995-1(1) (definition of *ownership test period*)**

5 Omit “sections 415-35”, substitute “sections 276-482, 415-35”.

6 **17 Subsection 995-1(1) (definition of *test period*)**

7 Omit “sections 415-35”, substitute “sections 276-482, 415-35”.

# EXPOSURE DRAFT

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## Schedule 7—Non-arm’s length income

### *Income Tax Assessment Act 1997*

#### **1 Section 275-600**

After “managed investment trust”, insert “(other than an AMIT)”.

#### **2 Subsection 275-605(1)**

Omit “Subsections (2), (3) and (4)”, substitute “Subsections (2) and (4)”.

#### **3 Subsection 275-605(3)**

Repeal the subsection.

#### **4 Subsection 275-605(4)**

Omit “If the trust is *not* an \*AMIT for the income year, reduce”, substitute “Reduce”.

#### **5 Paragraph 275-605(5)(a)**

Repeal the paragraph, substitute:

- (a) are reflected in the trust’s \*net income for the income year (disregarding subsection (4)); and

#### **6 Paragraph 275-615(1)(a)**

Repeal the paragraph, substitute:

- (a) the amount of non-arm’s length income for the managed investment trust in relation to the income year is reflected in its \*net income for the income year; and

#### **7 After paragraph 275-615(1)(b)**

Insert:

- (ba) the managed investment trust is *not* an \*AMIT for the income year; and

#### **8 At the end of subsection 275-615(1)**

Add:

Note: For the Commissioner’s power to make a determination if the managed investment trust is an AMIT (and therefore an AIV), see section 276-443.

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## 9 Section 276-1

After “Subdivision 276-G)”, insert “, and certain amounts reflecting non-arm’s length income (see Subdivision 276-GA)”.

## 10 After Subdivision 276-G

Insert:

### Subdivision 276-GA—Modification for non-arm’s length income

#### Guide to Subdivision 276-GA

##### 276-437 What this Subdivision is about

An AIV for an income year (or, if the AIV is an AMIT, the trustee of the AMIT) is taxed on amounts related to the AIV’s non-arm’s length income for the income year.

#### Table of sections

##### Operative provisions

276-439	AIV or trustee taxed on amount of non-arm’s length income of AIV
276-441	Non-arm’s length income
276-443	Commissioner’s determination in relation to amount of non-arm’s length income

#### Operative provisions

##### 276-439 AIV or trustee taxed on amount of non-arm’s length income of AIV

(1) Subsections (2), (3) and (4) apply if the Commissioner has made a determination under section 276-443 that specifies an amount of \*non-arm’s length income for a specified \*AIV in relation to a specified income year.

##### *Excess amount to be taxed*

(2) The \*AIV (or, if the AIV is an \*AMIT, the trustee of the AMIT) is liable to pay income tax at the rate declared by the Parliament on the amount mentioned in subsection (5).

# EXPOSURE DRAFT

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1 Note: The rate is set out in subsection 12(10A) of the *Income Tax Rates Act*  
2 1986.

3 *Excess amount to be adjusted*

- 4 (3) Treat the \*AIV as having an \*over in the income year in which the  
5 determination is made, for the specified income year, of a character  
6 relating to \*ordinary income, or \*statutory income, from an  
7 \*Australian source, equal to the amount mentioned in  
8 subsection (5).
- 9 (4) However, if the \*AIV already has such an over in the income year  
10 in which the determination is made, for the specified income year:  
11 (a) do not apply subsection (3); and  
12 (b) increase the amount of that over by the amount mentioned in  
13 subsection (5).

14 *Excess amount*

- 15 (5) The amount is the excess mentioned in paragraph 276-441(1)(b) in  
16 respect of the \*non-arm's length income, reduced by deductions (if  
17 any) that:  
18 (a) are reflected in the amounts of its \*AIV components for the  
19 income year (disregarding subsection (3)); and  
20 (b) are attributable only to the amount of non-arm's length  
21 income.

22 **276-441 Non-arm's length income**

- 23 (1) An amount of \*ordinary income or \*statutory income is *non-arm's*  
24 *length income* of an \*AIV if:  
25 (a) it is derived from a \*scheme the parties to which were not  
26 dealing with each other at \*arm's length in relation to the  
27 scheme; and  
28 (b) that amount exceeds the amount that the entity might have  
29 been expected to derive if those parties had been dealing with  
30 each other at arm's length in relation to the scheme; and  
31 (c) the amount is none of the following:  
32 (i) a distribution from a \*corporate tax entity;  
33 (ii) a distribution from a trust that is *not* a party to the  
34 scheme mentioned in paragraph (a);  
35 (iii) a \*return covered by subsection (3).



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- 1 (3) This subsection covers a \*return that an entity pays or provides on  
2 a \*debt interest, if the rate (expressed on an annual basis) of the  
3 return does not exceed the greater of:  
4 (a) the \*benchmark rate of return for the interest; and  
5 (b) the \*base interest rate for the day on which the return is paid  
6 or provided, plus 3 percentage points.
- 7 (4) Subsection (5) applies if:  
8 (a) an amount would be \*non-arm's length income of the \*AIV  
9 (disregarding that subsection); and  
10 (b) the amount is a distribution from a trust, or a share of the \*net  
11 income of a trust, if the trust is a party to the scheme  
12 mentioned in paragraph (1)(a).
- 13 (5) The amount is \*non-arm's length income of the \*AIV only to the  
14 extent that the distribution or share of \*net income is attributable to  
15 non-arm's length income of the trust mentioned in paragraph (4)(b)  
16 (on the assumption that the trust were an AIV) because of another  
17 operation of this section.
- 18 (6) Subsection (7) applies if:  
19 (a) an amount (the *first amount*) of \*ordinary income or  
20 \*statutory income of the \*AIV that would be \*non-arm's  
21 length income of the AIV (disregarding that subsection) is:  
22 (i) a distribution from a trust that is a party to the scheme  
23 mentioned in paragraph (1)(a); or  
24 (ii) a share of the \*net income of a trust that is a party to that  
25 scheme; and  
26 (b) another amount (the *second amount*) of ordinary income or  
27 statutory income of the AIV is:  
28 (i) a distribution from another trust (whether or not the  
29 other trust is a party to that scheme); or  
30 (ii) a share of the net income of another trust (whether or  
31 not the other trust is a party to that scheme); and  
32 (c) it is reasonable to conclude that the second amount would  
33 have been higher but for the first amount.
- 34 (7) The first amount is *not* \*non-arm's length income of the \*AIV to  
35 the extent that the second amount would have been higher as  
36 mentioned in paragraph (6)(c).
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# EXPOSURE DRAFT

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## 276-443 Commissioner's determination in relation to amount of non-arm's length income

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- 3 (1) The Commissioner may make a determination in writing that  
4 specifies an amount of \*non-arm's length income for a specified  
5 \*AIV in relation to a specified income year if the Commissioner is  
6 satisfied that:
- 7 (a) the amount of non-arm's length income for the AIV in  
8 relation to the income year is reflected in one or more of its  
9 \*AIV components for the income year; and
- 10 (b) the AIV is a party to the \*scheme mentioned in  
11 paragraph 276-441(1)(a) at a time in the income year in  
12 which the amount is derived; and
- 13 (c) at least one of the parties to that scheme is *not* an AIV in  
14 relation to the income year.

15 *Determination does not form part of assessment*

- 16 (3) A determination under subsection (1) does not form part of an  
17 assessment.

18 *Notice by Commissioner of determination*

- 19 (4) If the Commissioner makes a determination under subsection (1),  
20 the Commissioner must give a copy of the determination to the  
21 \*AIV concerned. The notice may be included in a notice of  
22 assessment.

23 *Evidence of determination*

- 24 (5) The production of:
- 25 (a) a notice of a determination; or
- 26 (b) a document signed by the Commissioner, a Second  
27 Commissioner or a Deputy Commissioner purporting to be a  
28 copy of a determination;
- 29 is:
- 30 (c) conclusive evidence of the due making of the determination;  
31 and
- 32 (d) conclusive evidence that the determination is correct (except  
33 in proceedings under Part IVC of the *Taxation*  
34 *Administration Act 1953* on an appeal or review relating to  
35 the determination).
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## *Objections*

- (6) If an entity to whom a determination relates is dissatisfied with the determination, the entity may object against it in the manner set out in Part IVC of the *Taxation Administration Act 1953*.

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## Schedule 8—Non-concessional investment vehicle income

### *Income Tax Assessment Act 1997*

#### **1 Paragraph 25-115(1)(e)**

Omit “MIT”, substitute “investment vehicle”.

#### **2 Subsection 25-115(2)**

After “\*managed investment trust”, insert “or a \*CCIV”.

#### **3 Subsection 25-115(2)**

After “managed investment trust” (last occurring), insert “or a \*CCIV”.

#### **4 Paragraph 25-120(2)(d)**

Omit “MIT”, substitute “investment vehicle”.

#### **5 Subsection 25-120(3)**

After “\*managed investment trust”, insert “or a \*CCIV”.

#### **6 Subsection 25-120(3)**

After “managed investment trust” (last occurring), insert “or a \*CCIV”.

#### **7 Subsections 275-610(1A) and 275-615(1A)**

Omit “MIT”, substitute “investment vehicle”.

#### **8 After subsection 276-441(1)**

Insert:

- (2) Disregard subparagraph (1)(c)(ii) if the amount of \*ordinary income or \*statutory income is \*excepted investment vehicle income.

#### **9 After subsection 276-443(1)**

Insert:

- (2) Disregard paragraphs (1)(b) and (c) if the amount of \*ordinary income or \*statutory income is \*excepted investment vehicle income.

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## 10 Paragraphs 880-105(3)(a) and (b)

Omit “MIT”, substitute “investment vehicle”.

## 11 Subsection 995-1(1)

Insert:

*excepted investment vehicle CSA income* has the meaning given by section 12-442 in Schedule 1 to the *Taxation Administration Act 1953*.

## 12 Subsection 995-1(1) (definition of *excepted MIT CSA income*)

Repeal the definition.

## 13 Subsection 995-1(1)

Insert:

*investment vehicle agricultural income* has the meaning given by sections 12-448 and 12-449 in Schedule 1 to the *Taxation Administration Act 1953*.

*investment vehicle cross staple arrangement income* has the meaning given by sections 12-437 and 12-440 in Schedule 1 to the *Taxation Administration Act 1953*.

*investment vehicle residential housing income* has the meaning given by sections 12-450 and 12-451 in Schedule 1 to the *Taxation Administration Act 1953*.

*investment vehicle trading trust income* has the meaning given by sections 12-446 and 12-447 in Schedule 1 to the *Taxation Administration Act 1953*.

## 14 Subsection 995-1(1)

Repeal the following definitions:

- (a) definition of *MIT agricultural income*;
- (b) definition of *MIT cross staple arrangement income*;
- (c) definition of *MIT residential housing income*;
- (d) definition of *MIT trading trust income*.

## 15 Subsection 995-1(1)

Insert:

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1                    *non-concessional investment vehicle income* has the meaning  
2                    given by section 12-435 in Schedule 1 to the *Taxation*  
3                    *Administration Act 1953*.

4                    **16 Subsection 995-1(1) (definition of *non-concessional MIT***  
5                    ***income*)**

6                    Repeal the definition.

7                    **17 Subsection 995-1(1) (at the end of the definition of**  
8                    ***referable*)**

9                    Add:

10                    ; and (d) income of a \*CCIV is *referable* to a \*sub-fund of the CCIV  
11                    that is an \*attribution sub-fund for an income year if the  
12                    income is included in the total assessable income of the  
13                    sub-fund (as mentioned in subsection 276-265(2)) for the  
14                    income year, worked out as if the sub-fund were a separate  
15                    entity.

16                    ***Income Tax (Managed Investment Trust Withholding Tax)***  
17                    ***Act 2008 [To be included in a separate amending***  
18                    ***Bill]***

19                    **18 Section 1**

20                    Omit “*Managed Investment Trust*”, substitute “*Investment Vehicle*”.

21                    **19 Section 2A**

22                    Insert:

23                    *non-concessional investment vehicle income* has the same  
24                    meaning as in the *Income Tax Assessment Act 1997*.

25                    **20 Section 2A (definition of *non-concessional MIT income*)**

26                    Repeal the definition.

27                    **21 Subparagraph 4(1)(a)(iii)**

28                    Omit “MIT”, substitute “investment vehicle”.

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## 1 *Taxation Administration Act 1953*

### 2 **22 Subparagraphs 12-385(3)(a)(iii) and 12-390(3)(a)(iii) and** 3 **(6)(a)(iii) in Schedule 1**

4 Omit “MIT”, substitute “investment vehicle”.

### 5 **23 Paragraphs 12-395(3)(ab) and (6)(ab) in Schedule 1**

6 Omit “MIT”, substitute “investment vehicle”.

### 7 **24 Section 12-435 in Schedule 1**

8 Repeal the section, substitute:

#### 9 **12-435 Meaning of *non-concessional investment vehicle income***

10 *Non-concessional investment vehicle income* means any of the  
11 following:

- 12 (a) \*investment vehicle cross staple arrangement income;
- 13 (b) \*investment vehicle trading trust income;
- 14 (c) \*investment vehicle agricultural income;
- 15 (d) \*investment vehicle residential housing income.

### 16 **25 Subsection 12-436(1) in Schedule 1**

17 Repeal the subsection, substitute:

18 (1) An *asset entity* in relation to an income year is:

- 19 (a) a trust or partnership that is *not* covered by  
20 subsection 275-10(4) of the *Income Tax Assessment Act 1997*  
21 in relation to the income year; or
- 22 (b) a \*CCIV that has at least one \*attribution sub-fund for the  
23 income year.

### 24 **26 Subsection 12-436(2) in Schedule 1**

25 After “company”, insert “(other than a \*CCIV)”.

### 26 **27 Section 12-437 in Schedule 1 (heading)**

27 Omit “MIT”, substitute “*investment vehicle*”.

### 28 **28 Paragraph 12-437(1)(a) in Schedule 1**

29 Repeal the paragraph, substitute:

- 30 (a) an amount is included:

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- 1 (i) in the assessable income for an income year of a  
2 \*managed investment trust in relation to the income year  
3 (worked out for the purposes of determining the trust's  
4 \*net income, or in the case of an \*AMIT, the trust's total  
5 assessable income, for the income year); or  
6 (ii) in the part of the assessable income for an income year  
7 of a \*CCIV that is referable to a \*sub-fund of the CCIV  
8 that is an \*attribution sub-fund for the income year; and

9 **29 Subsection 12-437(2) in Schedule 1**

10 Omit "*MIT*", substitute "*investment vehicle*".

11 **30 Subsection 12-437(2) in Schedule 1**

12 After "\*managed investment trust" (first occurring), insert "or \*CCIV".

13 **31 Subparagraph 12-437(2)(a)(i) in Schedule 1**

14 Omit "\*managed investment trust", substitute "managed investment  
15 trust or CCIV".

16 **32 Subparagraph 12-437(2)(c)(i) in Schedule 1**

17 After "managed investment trust", insert "or CCIV".

18 **33 Subsection 12-437(3) in Schedule 1**

19 Omit "*MIT*", substitute "*investment vehicle*".

20 **34 Subsection 12-437(3) in Schedule 1**

21 After "\*managed investment trust", insert "or \*CCIV".

22 **35 Subsection 12-437(4) in Schedule 1**

23 Omit "*MIT*", substitute "*investment vehicle*".

24 **36 Subsection 12-437(4) in Schedule 1**

25 After "\*managed investment trust", insert "or \*CCIV".

26 **37 Subsection 12-437(4) in Schedule 1 (note)**

27 After "managed investment trust", insert "or CCIV".

28 **38 Subsection 12-437(4) in Schedule 1 (note)**

29 Omit "MIT", substitute "investment vehicle".

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1 **39 Subsection 12-437(5) in Schedule 1**

2 Omit “*MIT*”, substitute “*investment vehicle*”.

3 **40 Subsection 12-437(5) in Schedule 1**

4 After “\*managed investment trust”, insert “or \*CCIV”.

5 **41 Subsection 12-437(7) in Schedule 1**

6 Omit “*MIT*”, substitute “*investment vehicle*”.

7 **42 Subsection 12-437(7) in Schedule 1**

8 After “\*managed investment trust”, insert “or \*CCIV”.

9 **43 Section 12-438 in Schedule 1 (heading)**

10 Omit “*MIT*”, substitute “**Investment vehicle**”.

11 **44 Paragraph 12-438(1)(a) in Schedule 1**

12 Omit “\*MIT”, substitute “\*investment vehicle”.

13 **45 Paragraph 12-438(1)(b) in Schedule 1**

14 Repeal the paragraph, substitute:

15 (b) either:

- 16 (i) if the asset entity is a \*managed investment trust—the  
17 investment vehicle cross staple arrangement income of  
18 the asset entity for the previous income year; or  
19 (ii) if the asset entity is a \*CCIV—the part of investment  
20 vehicle cross staple arrangement income of the asset  
21 entity for the previous income year that is \*referable to  
22 the \*attribution sub-fund to which the amount is  
23 referable;

24 does not exceed 5% of the amount mentioned in  
25 subsection (3).

26 **46 Subsection 12-438(2) in Schedule 1**

27 Omit “\*MIT”, substitute “\*investment vehicle”.

28 **47 Paragraph 12-438(3)(a) in Schedule 1**

29 After “income year” (first occurring), insert “and is not a \*CCIV”.

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## 48 At the end of subsection 12-438(3) in Schedule 1

Add:

; or (c) if the asset entity is a CCIV—so much of the total assessable income (as mentioned in that subsection) of the asset entity for the previous income year as is \*referable to the \*attribution sub-fund mentioned in subparagraph (1)(b)(ii) of this section.

## 49 Subsection 12-438(4) in Schedule 1

After “previous income year”, insert “(whether or not any of that income is \*referable to the \*attribution sub-fund)”.

## 50 Paragraph 12-438(5)(b) in Schedule 1

Omit “to the \*MIT”, substitute “to the \*investment vehicle”.

## 51 Paragraph 12-438(5)(b) in Schedule 1

Omit “of the MIT”, substitute “of the investment vehicle”.

## 52 At the end of subsection 12-438(5) in Schedule 1

Add:

; and (e) treat references in this section to income that is \*referable to an \*attribution sub-fund as instead being references to a reasonable estimate of the income that is referable to the attribution sub-fund.

## 53 Subsection 12-438(6) in Schedule 1

After “\*managed investment trust”, insert “or \*CCIV”.

## 54 Section 12-439 in Schedule 1 (heading)

Omit “MIT”, substitute “Investment vehicle”.

## 55 Section 12-440 in Schedule 1 (heading)

Omit “MIT”, substitute “investment vehicle”.

## 56 Subsection 12-440(3) in Schedule 1

Omit “MIT”, substitute “investment vehicle”.

## 57 Paragraph 12-441(1)(a) in Schedule 1

After “\*managed investment trust”, insert “or \*CCIV”.

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1 **58 Paragraphs 12-441(1)(a), (b) and (c) in Schedule 1**

2 Omit “MIT”, substitute “investment vehicle”.

3 **59 Subsection 12-441(2) in Schedule 1**

4 Omit “MIT” (first occurring), substitute “investment vehicle”.

5 **60 Subsection 12-441(2) in Schedule 1**

6 Omit “trust’s excepted MIT CSA income”, substitute “trust’s or  
7 \*CCIV’s excepted investment vehicle CSA income”.

8 **61 Subsection 12-441(3) in Schedule 1**

9 After “\*managed investment trust”, insert “or \*CCIV”.

10 **62 Section 12-442 in Schedule 1 (heading)**

11 Omit “MIT”, substitute “*investment vehicle*”.

12 **63 Section 12-442 in Schedule 1**

13 Omit “*excepted MIT CSA income* of a \*managed investment trust in  
14 relation to an income year if it would be \*MIT cross staple arrangement  
15 income of the managed investment trust”, substitute “*excepted*  
16 *investment vehicle CSA income* of a \*managed investment trust or  
17 \*CCIV in relation to an income year if it would be \*investment vehicle  
18 cross staple arrangement income of the managed investment trust or  
19 CCIV”.

20 **64 Paragraph 12-443(1)(a) in Schedule 1**

21 Omit “MIT”, substitute “investment vehicle”.

22 **65 Subsection 12-444(2) in Schedule 1**

23 After “\*managed investment trust”, insert “or \*CCIV”.

24 **66 Subparagraph 12-444(2)(a)(ii) in Schedule 1**

25 Omit “\*trust components”, substitute “\*AIV components”.

26 **67 At the end of paragraph 12-444(2)(a) in Schedule 1**

27 Add:

- 28 (iv) if the relevant asset entity is a \*CCIV—the sum of the  
29 \*AIV components, of the relevant asset entity’s  
30 \*attribution sub-funds, with the character of assessable

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1 income, or the relevant asset entity's tax loss (to the  
2 extent that it relates to those sub-funds) for the income  
3 year;

4 Note: Because of section 195-105 of the *Income Tax Assessment Act*  
5 *1997*, amounts under this subparagraph are worked out separately  
6 for each attribution sub-fund.

## 7 **68 At the end of paragraph 12-444(2)(b) in Schedule 1**

8 Add:

9 Note: Because of section 195-105 of the *Income Tax Assessment Act*  
10 *1997*, if the relevant operating entity is a \*CCIV, amounts under  
11 this subparagraph are worked out separately for each attribution  
12 sub-fund of the relevant operating entity.

## 13 **69 Paragraph 12-444(2)(f) in Schedule 1**

14 Omit "MIT", substitute "investment vehicle".

## 15 **70 Section 12-445 in Schedule 1 (heading)**

16 Omit "\*MIT", substitute "investment vehicle".

## 17 **71 Paragraphs 12-445(1)(c) and (d) and (2)(a) in Schedule 1**

18 Omit "MIT" (wherever occurring), substitute "investment vehicle".

## 19 **72 Paragraph 12-445(2)(b) in Schedule 1**

20 Omit "\*MIT", substitute "\*investment vehicle".

## 21 **73 Subsection 12-445(3) in Schedule 1**

22 Omit "\*MIT", substitute "\*investment vehicle".

## 23 **74 Section 12-446 in Schedule 1 (heading)**

24 Omit "*MIT*", substitute "*investment vehicle*".

## 25 **75 Paragraph 12-446(1)(a) in Schedule 1**

26 Repeal the paragraph, substitute:

27 (a) an amount is included:

- 28 (i) in the assessable income for an income year of a  
29 \*managed investment trust in relation to the income year  
30 (worked out for the purposes of determining the trust's  
31 \*net income, or in the case of an \*AMIT, the trust's total  
32 assessable income, for the income year); or

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(ii) in the part of the assessable income for an income year of a \*CCIV that is referable to a \*sub-fund of the CCIV that is an \*attribution sub-fund for the income year; and

## 76 Subsection 12-446(2) in Schedule 1

Omit “*MIT trading trust income* of the \*managed investment trust”, substitute “*investment vehicle trading trust income* of the \*managed investment trust or \*CCIV”.

## 77 Paragraph 12-446(2)(a) in Schedule 1

After “managed investment trust”, insert “or CCIV”.

## 78 Subsection 12-446(3) in Schedule 1

Omit “*MIT trading trust income* of the \*managed investment trust”, substitute “*investment vehicle trading trust income* of the \*managed investment trust or \*CCIV”.

## 79 Subsection 12-446(3) in Schedule 1

Omit “\*CGT event E10”, substitute “\*CGT event M1”.

## 80 Section 12-447 in Schedule 1 (heading)

Omit “*MIT*”, substitute “*investment vehicle*”.

## 81 Paragraph 12-447(1)(a) in Schedule 1

Omit “\*MIT”, substitute “\*investment vehicle”.

## 82 Subsection 12-447(2) in Schedule 1

Omit “\*MIT”, substitute “\*investment vehicle”.

## 83 Section 12-448 in Schedule 1 (heading)

Omit “*MIT*”, substitute “*investment vehicle*”.

## 84 Paragraph 12-448(1)(a) in Schedule 1

Repeal the paragraph, substitute:

(a) an amount is included:

(i) in the assessable income for an income year of a \*managed investment trust in relation to the income year (worked out for the purposes of determining the trust’s \*net income, or in the case of an \*AMIT, the trust’s total assessable income, for the income year); or

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1 (ii) in the part of the assessable income for an income year  
2 of a \*CCIV that is referable to a \*sub-fund of the CCIV  
3 that is an \*attribution sub-fund for the income year; and

## 4 **85 Subsection 12-448(2) in Schedule 1**

5 Omit “*MIT agricultural income* of the \*managed investment trust”,  
6 substitute “*investment vehicle agricultural income* of the \*managed  
7 investment trust or \*CCIV”.

## 8 **86 Subsection 12-448(2) in Schedule 1**

9 After “by the managed investment trust”, insert “or CCIV”.

## 10 **87 Section 12-449 in Schedule 1 (heading)**

11 Omit “MIT”, substitute “investment vehicle”.

## 12 **88 Paragraph 12-449(1)(b) in Schedule 1**

13 Omit “\*MIT”, substitute “\*investment vehicle”.

## 14 **89 Subsections 12-449(2) and (3) in Schedule 1**

15 Omit “\*MIT”, substitute “\*investment vehicle”.

## 16 **90 Section 12-450 in Schedule 1 (heading)**

17 Omit “MIT”, substitute “investment vehicle”.

## 18 **91 Paragraph 12-450(1)(a) in Schedule 1**

19 Repeal the paragraph, substitute:

20 (a) an amount is included:

21 (i) in the assessable income for an income year of a  
22 \*managed investment trust in relation to the income year  
23 (worked out for the purposes of determining the trust’s  
24 \*net income, or in the case of an \*AMIT, the trust’s total  
25 assessable income, for the income year); or

26 (ii) in the part of the assessable income for an income year  
27 of a \*CCIV that is referable to a \*sub-fund of the CCIV  
28 that is an \*attribution sub-fund for the income year; and

## 29 **92 Subsection 12-450(2) in Schedule 1**

30 Omit “*MIT residential housing income* of the \*managed investment  
31 trust”, substitute “*investment vehicle residential housing income* of the  
32 \*managed investment trust or \*CCIV”.

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1 **93 Subsection 12-450(2) in Schedule 1**

2 After “by the managed investment trust”, insert “or CCIV”.

3 **94 Subsection 12-450(3) in Schedule 1**

4 Omit “*MIT residential housing income* of the \*managed investment  
5 trust”, substitute “*investment vehicle residential housing income* of the  
6 \*managed investment trust or \*CCIV”.

7 **95 Section 12-451 in Schedule 1 (heading)**

8 Omit “MIT”, substitute “investment vehicle”.

9 **96 Paragraph 12-451(1)(b) in Schedule 1**

10 Omit “\*MIT”, substitute “\*investment vehicle”.

11 **97 Subsections 12-451(2) and (3) in Schedule 1**

12 Omit “\*MIT”, substitute “\*investment vehicle”.

13 **98 Section 12-453 in Schedule 1 (heading)**

14 Omit “MIT agricultural income and MIT”, substitute “Investment  
15 vehicle agricultural income and investment vehicle”.

16 ***Treasury Laws Amendment (Making Sure Foreign Investors***  
17 ***Pay Their Fair Share of Tax in Australia and***  
18 ***Other Measures) Act 2018***

19 **99 Subitem 16(1) of Schedule 1**

20 After “managed investment trust”, insert “or CCIV”.

21 **100 Subitem 16(2) of Schedule 1**

22 Omit “MIT cross staple arrangement income of a managed investment  
23 trust”, substitute “investment vehicle cross staple arrangement income  
24 of a managed investment trust or CCIV”.

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## Schedule 9—Other amendments

### *A New Tax System (Australian Business Number) Act 1999*

#### **1 Section 5 (heading)**

Omit “and certain RSE licensees”, substitute “, certain RSE licensees and certain sub-funds”.

#### **2 At the end of section 5**

Add:

(3) This Act applies to a \*sub-fund of a \*CCIV as if the sub-fund were an \*entity \*carrying on an \*enterprise in \*Australia.

#### **3 Section 41**

Insert:

*CCIV* has the same meaning as in the \*ITAA 1997.

*sub-fund*, of a \*CCIV, has the meaning given by section 1233 of the *Corporations Act 2001*.

### *Income Tax Assessment Act 1936*

#### **4 Subsection 6(1) (after paragraph (f) of the definition of *dividend*)**

Insert:

; or (g) any franked part or unfranked part of a distribution made by a CCIV to any of the members of an attribution sub-fund of the CCIV, except to the extent that the distribution is attributable to income of the CCIV that:

(i) is a distribution made to the CCIV, or an amount credited to the CCIV, of a kind mentioned in paragraph (a) or (b); and

(ii) is not anything of a kind mentioned in paragraph (d), (e) or (f).

#### **5 Subsection 6(1) (paragraph (a) of the definition of *full self-assessment taxpayer*)**

Repeal the paragraph, substitute:



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(a) a company (other than a CCIV);

## 6 After section 95AAD

Insert:

### 95AAE Division does not apply in relation to depositary

This Division does not apply in relation to a trust estate (if any) constituted by the relationship between a CCIV and its depositary (within the meaning of the *Corporations Act 2001*).

## 7 After subsection 102P(10A)

Insert:

(10B) For the purposes of this section, if:

- (a) any units in a unit trust (except a foreign entity to which subsection 102N(2) applies) are held by a CCIV; and
  - (b) those units are, under section 1233H of the *Corporations Act 2001*, an asset of an attribution sub-fund of the CCIV;
- a person who is a member of the sub-fund is taken to hold those units.

## 8 Subsection 170(10AB)

Omit “AMMA statement”, substitute “AIVMA statement”.

## 9 Paragraph 170(10AB)(a)

Omit “AMIT” (wherever occurring), substitute “AIV”.

## 10 Paragraphs 251S(1)(d) to (f)

Omit “the trustee of an AMIT”, substitute “an entity”.

## 11 Subsection 255(2A)

After “withholding MITs”, insert “and withholding CCIVs”.

## *Income Tax Assessment Act 1997*

## 12 Section 11-55 (table item headed “foreign aspects of income taxation”)

Omit:  
managed investment trust withholding tax, amount

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subject to ..... 840-815

1 substitute:  
investment vehicle withholding tax, amount subject to ...  
840-815

2 **13 Section 13-1 (after table item headed “approved deposit**  
3 **funds (ADFs)”)**

4 Insert:  
**attribution investment vehicles**  
non-resident beneficiary ..... 276-110

5 **14 Section 13-1 (table item headed “attribution managed**  
6 **investment trusts”)**

7 Repeal the item.

8 **15 Section 67-23 (table item 14A, column headed “Subject**  
9 **matter”)**

10 Omit “attribution managed investment trusts”, substitute “attribution  
11 investment vehicles”.

12 **16 Section 112-46**

13 Repeal the section, substitute:

14 **112-46 Annual cost base adjustment for member’s share, unit or**  
15 **interest in AIV**

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**Annual cost base adjustment for member’s share, unit or interest in AIV**

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<b>Item</b>	<b>In this situation:</b>	<b>Element affected:</b>	<b>See section:</b>
1	Annual cost base adjustment for member’s share, unit or interest in AIV	The total cost base and reduced cost base	104-605

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17 **17 After paragraph 202-15(b)**

18 Insert:  
19 (ba) it is not a \*CCIV; and

20 **18 At the end of section 202-45**

21 Add:  
22 ; (k) a distribution made by a \*CCIV.

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1 **19 Division 275 (heading)**

2 Omit “: general”.

3 **20 After paragraph 275-20(4)(e)**

4 Insert:

5 (ea) a \*CCIV;

6 **21 Subsection 276-80(5)**

7 Omit “the effects mentioned in subsection (6) for the \*member”,  
8 substitute “the \*member’s entitlement to the \*tax offset”.

9 **22 Subsection 276-80(6)**

10 Repeal the subsection.

11 **23 Subsection 703-20(2) (after table item 3)**

12 Insert:

4 A company The company is a \*CCIV at the time

13 ***Income Tax Rates Act 1986 [To be included in a separate***  
14 ***amending Bill]***

15 **24 Subsection 23(2)**

16 Omit “(5)”, substitute “(5A)”.

17 **25 After subsection 23(5)**

18 Insert:

19 (5A) If the company is a CCIV, the rate of tax, in respect of any taxable  
20 income of a company that is not referable (within the meaning of  
21 the *Income Tax Assessment Act 1997*) to an attribution sub-fund of  
22 the CCIV, is 30%.

23 ***International Tax Agreements Act 1953***

24 **26 After subsection 3(2A)**

25 Insert:

26 (2B) A reference in an agreement to income from shares, or to income  
27 from other rights participating in profits, does not include a

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1 reference to an amount of a kind mentioned in paragraph (g) of the  
2 definition of *dividend* in subsection 6(1) of the *Income Tax*  
3 *Assessment Act 1936*.

## 4 *Taxation Administration Act 1953*

### 5 **27 Subsection 10-5(1) in Schedule 1 (table item 25, column** 6 **headed “Withholding payment”)**

7 After “withholding MIT”, insert “or a withholding CCIV”.

### 8 **28 Subsection 12-5(2) in Schedule 1 (table item 1AA, column** 9 **headed “Which is about:”)**

10 After “\*withholding MITs”, insert “or \*withholding CCIVs”.

### 11 **29 Subsection 15-15(1) in Schedule 1 (note 4)**

12 Omit “withholding MIT income”, substitute “income of withholding  
13 MITs and withholding CCIVs”.

### 14 **30 Subsection 16-153(4) in Schedule 1**

15 Omit “(the *paying trust*) in relation to an income year of that trust”,  
16 substitute “or \*withholding CCIV in relation to an income year of that  
17 withholding MIT or withholding CCIV”.

### 18 **31 Subsection 16-153(4) in Schedule 1 (note)**

19 After “withholding MIT”, insert “or withholding CCIV”.

### 20 **32 Paragraph 16-153(4A)(a) in Schedule 1**

21 After “\*withholding MIT”, insert “or \*withholding CCIV”.

### 22 **33 Subsection 16-157(1) in Schedule 1**

23 Omit “(the *paying trust*) in relation to an income year of that trust”,  
24 substitute “or \*withholding CCIV in relation to an income year of that  
25 withholding MIT or withholding CCIV”.

### 26 **34 Subsection 16-157(1) in Schedule 1 (note)**

27 After “withholding MIT”, insert “or withholding CCIV”.

### 28 **35 Subparagraph 16-157(2)(c)(i) in Schedule 1**

29 After “\*withholding MIT”, insert “or \*withholding CCIV”.

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1 **36 Paragraph 16-170(1AA)(d) in Schedule 1**

2 After “\*withholding MIT”, insert “or \*withholding CCIV”.

3 **37 Paragraph 16-195(1)(c) in Schedule 1**

4 Omit “withholding MIT income”, substitute “income of withholding  
5 MITs and withholding CCIVs”.

6 **38 Subsection 18-10(1) in Schedule 1**

7 Omit “withholding MIT income”, substitute “income of withholding  
8 MITs and withholding CCIVs”.

9 **39 Subparagraph 18-30(1)(a)(ii) in Schedule 1**

10 Omit “\*AMIT DIR payment”, substitute “\*AIV DIR payment”.

11 **40 Paragraph 18-30(1)(c) in Schedule 1**

12 Omit “AMIT DIR payment”, substitute “AIV DIR payment”.

13 **41 Subsections 18-65(1A) and 18-70(1A) in Schedule 1**

14 Omit “AMITs”, substitute “AIVs”.

15 **42 Subsection 288-115(3) in Schedule 1 (at the end of the  
16 table)**

17 Add:

3	if the *under or *over resulted from a failure by the operator of the *AIV or the operator’s agent to take reasonable care to comply with a *taxation law (other than the *Excise Acts)	25% of the under or over	10% of the under or over
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18 **43 At the end of subsection 288-115(4) in Schedule 1**

19 Add:

20 ; and (c) if the penalty specified under column 3 of item 3 of the table  
21 in that subsection is less than 20 penalty units—the amount  
22 of the penalty is 20 penalty units.

23 **44 Subsection 288-115(7) in Schedule 1**

24 Repeal the subsection, substitute:

25 (7) If more than one item in the table in subsection (3) applies:

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- 1 (a) if item 1 is one of those items—use item 1 and no other item;  
2 or  
3 (b) otherwise—use item 2 and not item 3.

4 **45 After section 359-30 in Schedule 1**

5 Insert:

6 **359-32 Ruling for attribution sub-fund of a CCIV**

- 7 A \*private ruling, given to or for a \*CCIV, that:  
8 (a) relates to an \*attribution sub-fund of the CCIV; and  
9 (b) is not an \*indirect tax or excise ruling;  
10 also applies to the \*members of the attribution sub-fund.

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## Schedule 10—Application and transitional provisions etc.

### 1 Application provision

The amendments made by this Act apply to assessments for income years starting on or after 1 July 2018.

### *Income Tax (Transitional Provisions) Act 1997*

### 2 Subsection 275-605(2)

Omit “Subsections 275-605(2), (3) and (4)”, substitute “Subsections 275-605(2) and (4)”.

### 3 At the end of Subdivision 276-A

Add:

#### **276-10 Application of Division 276 as amended to provide for AIVs**

- (1) Division 276 of the *Income Tax Assessment Act 1997* as amended by the *Treasury Laws Amendment (Corporate Collective Investment Vehicle) Act 2018* (the **amending Act**) applies as set out in item 1 of Schedule 10 to that Act.
- (2) Despite subsection (1), a choice made under section 276-20 of the *Income Tax Assessment Act 1997* before the repeal of that section by the amending Act continues in effect after that repeal as if the choice had been made under section 276-48 of that Act as amended by the amending Act.
- (3) Despite subsection (1), an AMIT for an income year (the **compliance year**) starting on or after 1 July 2018 is taken to comply with its obligations relating to AIVMA statements under the *Income Tax Assessment Act 1997* as amended by this Act if:
  - (a) the AMIT was an AMIT for the income year starting on or after 1 July 2017 and for each subsequent income year up to and including the compliance year; and
  - (b) if the amendments made by this Act had not been made—the AMIT would, for each of those subsequent income years, have been in compliance with its obligations relating to AMMA statements under that Act.

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(4) To avoid doubt, subsection (3) does not require the AMIT to comply with its obligations relating to AMMA statements under that Act for the compliance year.



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## Schedule 11—Definitions

### *Income Tax Assessment Act 1936*

#### 1 Subsection 6(1)

Insert:

*AIV* (short for *attribution investment vehicle*) has the same meaning as in the *Income Tax Assessment Act 1997*.

#### 2 Subsection 6(1) (paragraph (j) of the definition of *assessment*)

Omit “AMIT trustee” (wherever occurring), substitute “AIV, or AMIT trustee,”.

#### 3 Subsection 6(1)

Insert:

*attribution sub-fund* has the same meaning as in the *Income Tax Assessment Act 1997*.

*CCIV* has the same meaning as in the *Income Tax Assessment Act 1997*.

*sub-fund*, of a CCIV, has the meaning given by subsection 1222Q(1) of the *Corporations Act 2001*.

### *Income Tax Assessment Act 1997*

#### 4 Subsection 995-1(1)

Insert:

*AIV*: see *attribution investment vehicle*.

*AIV component*, of a particular character, has the meaning given by section 276-260.

*AIV component deficit*, of a particular character, has the meaning given by section 276-320.

*AIV cost base increase amount* has the meaning given by section 104-620.

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1 *AIV cost base net amount* has the meaning given by  
2 section 104-610.

3 *AIV cost base reduction amount* has the meaning given by  
4 section 104-615.

5 *AIV DIR payment* has the meaning given by section 12A-25 in  
6 Schedule 1 to the *Taxation Administration Act 1953*.

7 *AIV dividend payment* has the meaning given by section 12A-30  
8 in Schedule 1 to the *Taxation Administration Act 1953*.

9 *AIV interest payment* has the meaning given by section 12A-35 in  
10 Schedule 1 to the *Taxation Administration Act 1953*.

11 *AIVMA statement* (short for *AIV member annual statement*) has  
12 the meaning given by section 276-460.

13 *AIV member annual statement*: see *AIVMA statement*.

14 *AIV royalty payment* has the meaning given by section 12A-40 in  
15 Schedule 1 to the *Taxation Administration Act 1953*.

## 16 **5 Subsection 995-1(1)**

17 Repeal the following definitions:

- 18 (a) definition of *AMIT cost base increase amount*;
- 19 (b) definition of *AMIT cost base net amount*;
- 20 (c) definition of *AMIT cost base reduction amount*;
- 21 (d) definition of *AMIT DIR payment*;
- 22 (e) definition of *AMIT dividend payment*;
- 23 (f) definition of *AMIT interest payment*;
- 24 (g) definition of *AMIT member annual statement*.

## 25 **6 Subsection 995-1(1)**

26 Insert:

27 *AMIT restructuring period* has the meaning given by  
28 subsection 276-472(4).

## 29 **7 Subsection 995-1(1)**

30 Repeal the following definitions:

- 31 (a) definition of *AMIT royalty payment*;
  - 32 (b) definition of *AMMA statement*.
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## 8 Subsection 995-1(1)

Insert:

*attribution investment vehicle* or *AIV* has the meaning given by section 276-7.

*attribution sub-fund* has the meaning given by section 276-20.

*carry-forward AIV component deficit*, of a particular character, has the meaning given by section 276-330.

## 9 Subsection 995-1(1) (definition of *carry-forward trust component deficit*)

Repeal the definition.

## 10 Subsection 995-1(1)

Insert:

*CCIV*: see *corporate collective investment vehicle*.

*corporate collective investment vehicle* or *CCIV* has the same meaning as in the *Corporations Act 2001*.

*corporate director* has the same meaning as in the *Corporations Act 2001*.

*depository* has the same meaning as in the *Corporations Act 2001*.

*determined AIV component* has the meaning given by section 276-255.

## 11 Subsection 995-1(1) (definition of *determined trust component*)

Repeal the definition.

## 12 Subsection 995-1(1)

Insert:

*excluded sub-fund* has the meaning given by subsection 276-20(4).

*excluded sub-fund restructuring period* has the meaning given by subsection 124-945(2).

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1 **13 Subsection 995-1(1) (paragraph (f) of the definition of**  
2 ***income tax law*)**

3 Omit “AMIT”, substitute “AIV”.

4 **14 Subsection 995-1(1)**

5 Insert:

6 ***investment vehicle withholding tax*** means income tax payable  
7 under:

8 (a) Subdivision 840-M of this Act; or

9 (b) Subdivision 840-M of the *Income Tax (Transitional*  
10 *Provisions) Act 1997*.

11 **15 Subsection 995-1(1) (definition of *managed investment***  
12 ***trust withholding tax*)**

13 Repeal the definition.

14 **16 Subsection 995-1(1) (at the end of the definition of**  
15 ***member*)**

16 Add:

17 ; and (f) in relation to a \*sub-fund of a \*CCIV—means a person who  
18 is, under subsection 1222Q(3) of the *Corporations Act 2001*,  
19 a member of the sub-fund.

20 **17 Subsection 995-1(1) (definition of *non-arm’s length***  
21 ***income*)**

22 Omit “and 275-610”, substitute “, 275-610 and 276-441”.

23 **18 Subsection 995-1(1)**

24 Insert:

25 ***operator***, of an \*AIV, has the meaning given by section 276-7.

26 ***post-AIVMA actual payment*** has the meaning given by  
27 section 12A-210 in Schedule 1 to the *Taxation Administration Act*  
28 *1953*.

29 **19 Subsection 995-1(1) (definition of *post-AMMA actual***  
30 ***payment*)**

31 Repeal the definition.

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## 20 Subsection 995-1(1)

Insert:

*pre-AIVMA actual payment* has the meaning given by section 12A-210 in Schedule 1 to the *Taxation Administration Act 1953*.

## 21 Subsection 995-1(1) (definition of *pre-AMMA actual payment*)

Repeal the definition.

## 22 Subsection 995-1(1)

Insert:

*referable*:

- (a) a \*share in a \*CCIV is *referable* to a \*sub-fund of the CCIV if it is so referable within the meaning of section 1231 of the *Corporations Act 2001*; and
- (b) an asset of a \*CCIV is *referable* to a \*sub-fund of the CCIV if, under section 1233H of the *Corporations Act 2001*, it is an asset of the sub-fund; and
- (c) a liability of a \*CCIV is *referable* to a \*sub-fund of the CCIV if, under section 1233L of the *Corporations Act 2001*, it is a liability of the sub-fund.

*sub-fund*, of a \*CCIV, has the meaning given by subsection 1222Q(1) of the *Corporations Act 2001*.

*sub-fund participation interest* has the meaning given by section 276-28.

## 23 Subsection 995-1(1)

Repeal the following definitions:

- (a) definition of *trust component*;
- (b) definition of *trust component deficit*.

## 24 Subsection 995-1(1)

Insert:

*withholding CCIV* has the meaning given by section 12-384 in Schedule 1 to the *Taxation Administration Act 1953*.

# EXPOSURE DRAFT

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1 **25 Subsection 995-1(1) (paragraph (d) of the definition of**  
2 ***withholding tax*)**  
3 Omit “managed investment trust amounts”, substitute “investment  
4 vehicle amounts”.

# EXPOSURE DRAFT

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## Schedule 12—Amendments contingent on AMIT technical amendments

### *Income Tax Assessment Act 1936*

#### **1 Subsection 128B(1A) (note)**

Omit “AMIT” (first occurring), substitute “AIV”.

#### **2 Subsection 128B(1A) (note)**

Omit “trustee of the AMIT”, substitute “AIV (or, if the AIV is an AMIT, the trustee of the AMIT)”.

### *Income Tax Assessment Act 1997*

#### **3 Subsection 275-20(4A)**

Omit “subparagraph (4)(k)(ii)”, substitute “subsection (4)”.

#### **4 Subsection 840-805(2) (note 2)**

Omit “If the withholding MIT is an AMIT, under”, substitute “Under”.

#### **5 Subsection 840-805(2) (note 2)**

Omit “the trustee of the AMIT”, substitute “an AIV (or, if an AIV is an AMIT, the trustee of the AMIT)”.

#### **6 Subsection 840-805(3) (note)**

Omit “If the withholding MIT is an AMIT, under”, substitute “Under”.

### *Taxation Administration Act 1953*

#### **7 Subsection 12-140(1) in Schedule 1 (note)**

Omit “AMIT”, substitute “AIV”.

#### **8 Subsection 12-152(1) in Schedule 1**

Omit “\*pre-AMMA”, substitute “\*pre-AIVMA”.

#### **9 Subsection 12-152(2) in Schedule 1**

Omit “\*post-AMMA”, substitute “\*post-AIVMA”.

# EXPOSURE DRAFT

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1 **10 Paragraph 12-152(2)(a) in Schedule 1**

2 Omit “\*pre-AMMA”, substitute “\*pre-AIVMA”.

3 **11 Paragraph 12A-110(3)(b) in Schedule 1**

4 After “\*AMIT”, insert “, or attributable to the \*attribution sub-fund”.

5 **12 Paragraph 12A-110(3A)(a) in Schedule 1**

6 After “income year”, insert “, or the \*CCIV has a net capital loss for an  
7 earlier income year that is attributable to the \*attribution sub-fund”.

8 **13 Subparagraph 12A-215(1)(c)(i) in Schedule 1**

9 After “\*withholding MIT”, insert “, or the CCIV is a \*withholding  
10 \*CCIV”.

11 ***Treasury Laws Amendment (2018 Measures No. 5) Act 2018***

12 **14 Item 33 of Schedule 1**

13 Omit “\*AMIT”.