



Managed investment trusts – overview

What you need to know about managed investment trusts (MITs) and attribution managed investment trusts (AMITs).

Last updated 22 February 2023

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Overview



A managed investment trust is a trust in which members of the public collectively invest in passive income activities.

Eligibility requirements



Outlines the requirements a trust must meet to qualify as an MIT.

Attribution managed investment trusts



An eligible MIT may elect into the attribution MIT (AMIT) regime.

Withholding rules



MITs and AMITs must withhold income tax when making certain payments to a non-resident member.

Repeal of Division 6B



Following a Board of Taxation recommendation, Division 6B of the ITAA 1936 was repealed.

Arm's length income rule for MITs



The arm's length income rule removes the incentive to shift profits by engaging in non-arm's length activity.

20% tracing rule in Division 6C



Under the new system for MITs, modifications were made to the '20% tracing rule' in Division 6C of the ITAA 1936.

Consequences for public trading trusts



As a result of the 2016 amendments to Division 6C, some trusts cease to be taxed as corporate tax entities.

CGT event E4



When a CGT Event E4 occurs and how it affects a unit holders' cost base and potential capital gains.

Application and transitional provisions for the new tax system for MITs



Application and transitional provisions that were put in place to allow for the changes not made at the commencement.

How we apply the law



Our Law Companion Rulings describe how we will apply new laws once they are enacted

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A summary of our compliance approach in 3 key areas affected by the new rules for MITs.

Managed investment trust – flagged tax risks



Learn about the tax risks we have identified for managed investment trusts (MITs).

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Overview

A managed investment trust is a trust in which members of the public collectively invest in passive income activities

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Passive income activities can include investment in shares, property or fixed interest assets. A trust qualifies as a MIT if it meets certain requirements for the income year it is in operation.

MITs (and their members) are generally taxed under the trust provisions in Division 6 of the *Income Tax Assessment Act 1936* (ITAA 1936). Under these provisions, beneficiaries are generally taxed on their share of the net income of a trust or the trustee is taxed on their behalf, based on the 'present entitlement' of beneficiaries to trust income.

Changes to taxation of MITs

On 5 May 2016, the government enacted changes to the taxation of MITs. Eligible MITs were able to apply the new rules for an income year starting on or after 1 July 2015. Once a MIT elected in, the trust provisions in Division 6 no longer applied to the MIT. MITs that elected into the new regime became attribution managed investment trusts (AMITs) and are generally taxed under Division 276 of the *Income Tax Assessment Act 1997* (ITAA 1997).

The new tax system also introduced changes for MITs generally, including amendments to the rules around withholding and non-arm's length income.

Changes to taxation of unit trusts

In addition, the law includes changes to the tax treatment of certain corporate unit trusts and public trading trusts due to the repeal of Division 6B of the ITAA 1936 and changes to the 20% tracing rule in Division 6C of the ITAA 1936.

Eligibility requirements

Outlines the requirements a trust must meet to qualify as an MIT.

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A managed investment trust (MIT) is a publicly-held and commercially-operated collective investment trust that invests in primarily passive income activities. A trust qualifies as a MIT if all of the following apply for the income year in which it operates:

- The trustee is an Australian resident, or the central management and control of the trust is in Australia.
- The trust does not carry on or control an active trading business.
- The trust is a [managed investment scheme](#).
- The trust meets the [widely held requirement](#).
- The trust meets the [closely held restriction](#).
- The trust is operated or managed by an [appropriately regulated entity](#).

If temporary circumstances beyond the control of the trustee exist, the trust may continue to be treated as a MIT where it is fair and reasonable to do so. These requirements apply to all MITs, regardless of whether they opt into the attribution regime as AMITs.

Why there are eligibility requirements

The eligibility requirements are designed to ensure that a MIT is a genuine collective investment vehicle, and to limit the ability of foreign residents to adopt trust structures to access concessional withholding tax rates.

Under the MIT withholding tax regime, foreign investors are eligible for a reduced rate of withholding tax on fund payments from MITs if they are a resident of a country with which Australia has an effective exchange of information treaty.

The 'Australian management' requirement in the MIT definition is designed to enhance the competitiveness of the Australian managed funds industry.

The MIT definition has changed over time:

- in 2016, the definition was relocated and minor changes made
- in 2010, changes were made including to the scope of trusts and the widely held requirements
- prior to 2010

Managed investment schemes

The term 'managed investment scheme' (MIS) is defined in [Section 9](#) of the *Corporations Act 2001* (Corporations Act). Management investment schemes are regulated by the [Australian Securities & Investments Commission](#) (ASIC).

Widely held requirement

The 'widely held' requirements differ depending on whether the MIT is:

- [a registered MIS that is a retail trust](#)
- [a registered MIS that is a wholesale trust](#)
- [an unregistered MIS that is a wholesale trust](#).

Registered MIS that is a retail trust

A registered MIS that is a retail trust is widely held if any of the following are met:

- is listed on an approved securities exchange in Australia

- has at least 50 members
- has one or more [specified widely held entities](#) that together hold more than 25% of the participation interests in the trust and no other type of single entity holds more than 60% of the participation interests.

Registered MIS that is a wholesale trust

A registered MIS that is a wholesale trust is widely held if it has either:

- at least 25 members
- one or more [specified widely held entities](#) that together hold more than 25% of the participation interests in the trust and no other type of single entity holds more than 60% of the participation interests.

Unregistered MIS that is a wholesale trust

An unregistered MIS that is a wholesale trust is widely held if it has at least 25 members.

Specified widely held entities

Specified widely held entities include a:

- foreign collective investment trust with at least 50 members
- life insurance company or foreign life insurance company
- complying super fund, complying approved deposit fund or foreign super fund with at least 50 members
- limited partnership, if at least 95% of its membership interests are directly or indirectly held by specified widely held entities and the remaining membership interests are beneficially owned by a general partner that manages the limited partnership
- directly or indirectly wholly-owned subsidiary of a specified widely held entity.

Participation interests

'Participation interest' refers to the greater percentage held by the entity of the:

- interests (by value) in the trust

- control of rights attaching to membership interests
- rights to distributions from the trust.

Closely held restriction

There are restrictions on the extent to which a trust can be 'closely held'. The closely held restrictions differ depending on whether the MIT is a:

- [a registered MIS that is a retail trust](#)
- [an MIS that is a wholesale trust](#)

Specified widely held entities and trusts in a chain of trusts are treated as not having an interest in the trust for the purpose of the closely held rules.

Registered MIS that is a retail trust

To meet the closely held restriction, a registered MIS that is a retail trust must **not** have:


- 20 or fewer persons holding 75% or more of the participation interests or
- one foreign resident individual holding 10% or more of the participation interests.

MIS that is a wholesale trust

To meet the closely held restriction, a registered or unregistered MIS that is a wholesale trust must **not** have:

- 10 or fewer persons holding 75% or more of the participation interests or
- one foreign resident individual holding 10% or more of the participation interests.

Appropriately regulated entity

The trust must be registered under [section 601EB](#)  of the *Corporations Act* or, if a wholesale trust, under section 275-15 of the *ITAA 1997*.

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Attribution managed investment trusts

An eligible MIT may elect into the attribution MIT (AMIT) regime.

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Learn about the characteristics of AMITs.

Becoming an attribution managed investment trust (AMIT)



Understand the eligibility rules for becoming and ceasing to be an AMIT.

Attribution method for managed investment trusts



Explains how the attribution method works and is applied when calculating AMIT income and cost-base adjustments.

Unders and overs for AMITs



How to deal with under or over estimations of AMIT income.

Multi-class elections for AMITs



An AMIT can choose to treat separate classes within the trust as if they were separate AMITs.

Debt-like trust instruments – AMITs



A debt-like trust instrument in an attribution MIT (AMIT) is treated as a debt interest.

AMIT reporting requirements



AMITs are required to report to us and their members for each income year they are an AMIT.

AMIT trustee taxation



Generally, the trustee of an AMIT will be taxed where the income of the trust is not taxed at member level.

Penalties for AMITs



The trustee of an AMIT may be subject to administrative penalties where particular rules are not followed.

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Overview of AMITs

Learn about the characteristics of AMITs.

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Under the changes enacted in May 2016, an eligible MIT may elect into the attribution MIT regime and become an AMIT.

MITs that elect to be an AMIT are:

- allowed to use an attribution method of tax (in lieu of the existing present entitlement to income method in Division 6 of the ITAA 1936)
- allowed to carry forward under- and over-estimates of tax amounts into the discovery income year, generally without adverse tax consequences
- deemed as fixed trusts if they meet eligibility requirements.

If you are a MIT trustee, the AMIT regime allows you to choose to apply the attribution rules for an income year starting on or after 1 July 2015. The way a MIT's tax return is prepared for that income year will be sufficient evidence of the making of the choice.

Furthermore:

- unit holders in AMITs are allowed to make, in certain circumstances, both upward and downward adjustments to the cost base of their unit holdings to eliminate double taxation that may otherwise arise
- there is an arm's length rule for all MITs that aims to ensure related entities undertake transactions between one another in a manner that reflects commercial dealings
- the 20% tracing rule for public unit trusts in Division 6C of the ITAA 1936 has been amended so it does not apply to super funds and exempt entities that are entitled to a refund of excess imputation credits.

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Becoming an attribution managed investment trust (AMIT)

Understand the eligibility rules for becoming and ceasing to be an AMIT.

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For the 2016 and later income years, an eligible MIT may choose to apply the attribution rules in Division 276 of the *Income Tax Assessment Act 1997* (ITAA 1997). Where that choice is made, the MIT becomes known as an attribution MIT (AMIT).

Eligibility to be an AMIT

A trust is eligible to apply to be an AMITs for an income year if all of the following are satisfied:

- The trust is a MIT in relation to the income year.
- The members of the trust have 'clearly defined' rights to income and capital of the trust at all times when the trust is in existence during the income year.
- The trustee makes an irrevocable choice to apply the new system.

Clearly defined interests

Eligibility to be an AMIT requires that the rights of all members to income and capital arising from the membership interests in the trust are 'clearly defined'. Membership interests in a MIT will be clearly defined if either:

- the trust is registered under section 601EB of the *Corporations Act 2001* (this covers the registration of a managed investment scheme)
- the rights to income and capital arising from each membership interest in the trust are the same.

In a multi-class trust, varying fee structures or charges imposed on the members across classes, issue and redemption prices, and exposure of membership interests to foreign currency are disregarded when determining whether the rights to income and capital arising from the membership interests are the same.

When working out if members have clearly defined rights, consider whether:

- the trust constituent documents provide an objective benchmark for the trustee to attribute amounts to members annually
- the amount of each member component can be worked out on a fair and reasonable basis according to the constituent documents of the trust
- the rights of each member can be materially diminished or expanded through the exercise of a power or right
- the trustee is obliged to treat members in each class equally, and members in different classes fairly
- the trustee can change the constituent documents to modify members' rights.

For more information see also Law Companion Ruling LCR 2015/4 *Attribution Managed Investment Trusts: 'clearly defined rights'*.

Choice by trustee

The trustee must choose for the trust to become an AMIT. The trustee indicates their choice in the way they prepare the trust's tax return. Lodging an AMIT income tax return is sufficient evidence that the choice to become an AMIT has been made.

Once a trustee makes the choice for the MIT to become an AMIT, the choice cannot be revoked. This means the MIT will remain an AMIT for as long as it remains eligible.

If the trustee does not choose for the MIT to become an AMIT, the existing laws for the taxation of trusts (Division 6 of the *Income Tax Assessment Act 1936*: ITAA 1936) will continue to apply.

Deemed fixed trust

Under the new system, an AMIT will be treated as a fixed trust for income tax purposes. A member of the AMIT is treated as having a vested and indefeasible interest in a share of the income and capital of the AMIT throughout the income year.

Ceasing to be an AMIT

Once a trustee makes a choice for the trust to become an AMIT, it cannot be revoked. However, the trust can cease to be an AMIT if it no longer meets the eligibility requirements.

In that case, the trust will need to continue to work out unders and overs relating to a base year during which the trust was an AMIT and take those into account in calculating its net income for the later discovery year.

Care will need to be taken with unders and overs relating to tax offset characters, as penalties can apply.

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Attribution method for managed investment trusts

Explains how the attribution method works and is applied when calculating AMIT income and cost-base adjustments.

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The attribution method provides greater certainty for trustees and beneficiaries of managed investment trusts (MITs) by aligning the commercial and tax consequences of the activities of a MIT and providing flow-through of income and tax offset amounts with particular tax characteristics.

The attribution method will apply to those MITs that elect into the system and become an attribution MIT (AMIT).

Under the attribution method, the trustee must:

- determine each amount having a particular income or tax offset character for the trust
- attribute amounts with particular characters to members on a fair and reasonable basis in accordance with the constituent documents of the trust.

Unit holders of an AMIT (that is, the trust beneficiaries) are referred to as 'members'.

How the attribution method works



Outlines the 4 steps of the attribution method for AMITs.

Attribution vs present entitlement



Explains how the attribution method is used to address the principles of present entitlement.

Character flow-through for AMITs



Explains how the tax characteristics of income and offsets apply to AMIT members.

Calculating AMIT income – trust components



Explains how the trust components of particular income and offset characters are calculated for AMITs.

Attributing amounts to members



How the attribution method is used to ensure AMIT members are taxed appropriately.

Cost-base adjustments for AMIT members



The cost base of units in the AMIT that are CGT assets can be adjusted.

Member's choice



In selected circumstances, an AMIT member can choose a different determined member component of a particular character.

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How the attribution method works

Outlines the 4 steps of the attribution method for AMITs.

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Step 1. Calculate trust components

The trustee calculates the trust component of each income and tax offset character, including:

- deductions
- unders and overs
- rounding adjustments
- cross character allocations
- carry-forward trust component deficits.

Step 2. Record determined trust components

The trustee records the trust component of each income and tax offset character in a document.

Step 3. Determine member component

The trustee calculates the amount of the determined trust component to be attributed to each member.

Step 4. Record determined member components

The trustee issues an AMMA statement to members, recording the amounts of particular income and tax offset characters that have been attributed to them.

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Attribution vs present entitlement

Explains how the attribution method is used to address the principles of present entitlement.

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Prior to 5 May 2016, all trustees and beneficiaries of MITs were taxed under Division 6 of the ITAA 1936. Under Division 6, each beneficiary is taxed on their share of the trust's net income using the principles of present entitlement, while the trustee is only taxed on income that is not taxable to beneficiaries, or in certain circumstances is taxed on behalf of the beneficiaries.

One of the issues for MITs in using the principles of present entitlement occurs where beneficiaries acquire or dispose of their interests in the trust during the income year. Difficulties often arise in determining which beneficiaries have 'present entitlement' to the income of the trust at the end of the income year if they are no longer unit holders in the trust at that time. As a result, the tax consequences for the exiting unit holder, the new unit holder and the trustee can be affected.

The attribution method has been designed to overcome these difficulties so that the trust acts as a flow-through vehicle for income,

and the tax consequences for trust income received by members are the same or similar to those that would occur if the members had derived the income directly.

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Character flow-through for AMITs

Explains how the tax characteristics of income and offsets apply to AMIT members.

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The tax characteristics relating to assessable income, exempt income, non-assessable non-exempt income (NANE) and tax offsets are retained when an AMIT trustee attributes an amount to a member. The tax consequences for the member should generally be the same as if they had received the income or paid an amount directly.

This is done by both:

- assuming the member derived, received, made or paid the amount in their own right
- taking the circumstances under which, the AMIT derived, received, made or paid that amount to be the same for the member being attributed the amount.

'Character' for AMIT purposes

'Character' is not defined in the legislation but has its ordinary meaning. Each amount that attracts different tax consequences will have its own character.

An amount can have only one particular character that include:

- different types of assessable income such as
 - discount capital gains and non-discount capital gains
 - dividends, interest or royalties that are subject to withholding tax

- foreign source income
- franking credit gross-up
- exempt income or NANE income
- tax offsets.

For more information see also Law Companion Ruling LCR 2015/6 *Attribution Managed Investment Trusts: character flow through for AMITs*.

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Calculating AMIT income – trust components

Explains how the trust components of particular income and offset characters are calculated for AMITs.

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Under the attribution method, the trustee of an AMIT must first calculate the 'trust component of each particular character' – that is, the total of the amounts associated with the various activities of the trust that attract different tax consequences.

The sum of the trust components for each assessable income character must equal the total assessable income of the AMIT less deductions (but not reduced below nil).

Trust component of a particular income character

The trustee works out the trust component of a particular **income** character as follows:

Amount of the character derived or received in the income year
(less deductions)

plus

Total unders less Total overs

plus

Rounding adjustment deficit (or less Rounding adjustment surplus)

less

Cross-character allocation amount

less

Carry-forward trust component deficit

plus

Foreign income tax offset (FITO) allocation amount.

Trust component of a particular tax offset character

The trustee works out the trust component of a particular **tax offset** character as follows:

Amount of the character derived or received in the income year

plus

Total unders less Total overs.

Deductions

Deductions that relate directly to an amount of an assessable income character must initially be applied only to reduce that income character amount. If deductions relate to more than one assessable income character amount, they must be apportioned between them on a reasonable basis.

Any remaining deductions must be apportioned between the remaining assessable income character amounts on a reasonable basis. No trust component can be reduced below nil.

For more information see also Law Companion Ruling LCR 2015/8 *Attribution Managed Investment Trusts: the rules for working out trust components – allocation of deductions*.

Unders and overs

When the trustee of an AMIT is required to calculate the trust components for the year and the attribution of those amounts to members, they may have difficulty in obtaining final financial information in time to include it in the calculations. They may need to make an estimate of amounts to report to the ATO and the AMIT members by the required reporting dates.

Once the final financial information is available, the trustee will revise their calculations using final amounts. Any understatements in their estimations will be an 'under' and any overstatements in their estimations will be an 'over'.

Under the attribution system, any unders and overs can be accounted for in the year they are discovered, rather than the year that the under- or over-estimation occurred.

If the trustee chooses to reconcile the under or over in the discovery year, then:

- in the case of an **under** of a particular character – the trust component of that particular character is increased in the discovery year
- in the case of an **over** of a particular character – the trust component of that particular character is decreased in the

discovery year.

For more information see also unders and overs for AMITs.

Rounding adjustments deficit

Rounding discrepancies can occur where a trustee cannot reasonably attribute trust components in proportions equal to membership interests in a way that can be divided into payable currency (cents). When attributed amounts are rounded down, the unpaid amount becomes a rounding adjustment deficit.

An AMIT will have a rounding adjustment deficit of a particular character for an income year if:

- for the previous income year, the sum of all **determined member components** of a particular character is less than the [determined trust component](#) of that character for that previous income year, and
- the shortfall results wholly or partly from the trustee rounding down amounts in working out the determined member components for that previous income year.

The amount of the rounding adjustment deficit is applied to increase the trust component of that character in the income year in which the rounding adjustment deficit arises.

Rounding adjustment surplus

A rounding adjustment surplus will occur when the AMIT rounds up an amount in order to attribute it to members in whole cents, according to their membership interests.

An AMIT will have a rounding adjustment surplus of a particular character for an income year if both:

- for the previous income year, the sum of all **determined member components** of a particular character is more than the [determined trust component](#) of that character for that previous income year
- the surplus results wholly or partly from the trustee rounding up amounts in working out the determined member components for that previous income year.

The amount of the rounding adjustment surplus is applied to decrease the trust component of that character in the income year in which the rounding adjustment deficit arises.

Trust component deficit

When adjusting a trust component with the net overs/unders amount or a rounding adjustment surplus/deficit of that character, the amount of the adjusted trust component cannot be a negative – that is, it can only be reduced to nil.

Any amount remaining after the trust component is reduced to nil becomes a 'trust component deficit' for that character for that income year.

Cross-character allocation amount

The trustee can apply the trust component deficit for a particular character of assessable income to reduce one or more trust components of other characters of assessable income.

The amount allocated to each trust component is called the 'cross-character allocation' amount. The cross-character allocation must be done on a reasonable basis and cannot reduce the trust component of another character below nil.

Carried-forward trust component deficit

Any remaining trust component deficit that cannot be applied to another trust component of assessable income must be carried forward to a later income year. The amount is then called a 'carried forward trust component deficit'.

The same will apply if the trustee chooses not to apply the trust component deficit to another trust component of assessable income in the current income year (that is, the trustee does not make a cross-character allocation).

Carried-forward trust component deficits must be allocated in a future year in the same way as the current year:

- firstly, to a trust component of the same character of assessable income

- then to another trust component of a different character of assessable income as a cross-character allocation amount
- then as a carried forward trust component deficit to a future year if there is any amount remaining.

For more information see also Law Companion Ruling LCR 2016/4 *Attribution Managed Investment Trusts: 'carry-forward trust component deficit'*.

Trust component deficit of a tax offset character (other than FITO)

If an AMIT has a trust component deficit of a tax offset character that is not a foreign income tax offset (FITO), the trustee is liable to pay an amount of tax equal to the amount of the trust component deficit.

This is necessary because the excess tax offset attributed to a member in the earlier year will have been available to reduce the member's tax liability. Therefore, the imposition of tax on the trustee equal to the amount of the tax offset trust component deficit will ensure that the revenue is not disadvantaged by the member having been attributed an excess offset in the earlier year.

FITO allocation amount

If an AMIT has a foreign income tax offset (FITO) allocation amount, that amount is applied to increase the trust component of a character relating to foreign source income.

An AMIT will have a 'FITO allocation amount' if it has both:

- a trust component of a character that is foreign income tax paid (that counts toward a foreign income tax offset)
- a trust component deficit of that character for the income year.

As the standard corporate tax rate is currently 30%, the FITO allocation amount is worked out using the following formula:

Trust component deficit + (Trust component deficit × 70 ÷ 30)

Determined trust components

The trustee determines the amount of the trust components of each particular income character and creates a document recording those amounts. Once the amounts are documented, they are called the 'determined trust components'.

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Attributing amounts to members

How the attribution method is used to ensure AMIT members are taxed appropriately.

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A key objective of the attribution method is to ensure that members who invest in an AMIT are taxed on the trust income and other amounts in broadly the same way that they would have been taxed if they had held the assets of the AMIT directly.

Member component

The trustee of the AMIT works out on a fair and reasonable basis how much of the determined trust component of a particular character should be attributed to each member, based on their membership

interests in the trust. This is called the 'member component' of a particular character.

Determined member component

The trustee must then issue a statement to each member called an AMIT member annual (AMMA) statement, advising them how much of the particular character amounts have been attributed to them (the 'determined member component').

Where you are a member of an AMIT, for each determined member component attributed to you, you are treated for tax purposes as though you had derived, received, made or paid that amount:

- in your own right (rather than as a member of a trust)
- in the same circumstances as the AMIT derived, received, made or paid that amount, to the extent those circumstances give rise to the particular character.

The income and tax offset amounts will keep the same tax characteristics as they had for the trustee, so you will be taxed on those amounts as if you had had derived, received, made or paid those amounts in your own right, rather than as a beneficiary of a trust – in effect, you are 'standing in the shoes' of the trustee, and the income and tax offset amounts retain their character once attributed to you.

This means, for example, that your determined member components relating to assessable income will be used to determine your assessable income for the income year. This may be different from the amount you receive in actual cash payments.

Fair and reasonable basis

The trustee must attribute amounts to members on a fair and reasonable basis that is consistent with constituent documents of the trust, such as the trust deed.

An attribution will be considered to be fair and reasonable when both:

- the decision follows the constituent documents of the trust
- it does not involve 'streaming' of amounts based on the tax characteristics of the member.

Streaming based on the tax characteristics of a member does not necessarily occur because the attribution reflects the member's economic interests in the assets of the trust. Members can invest in particular classes within the trust that will best suit their tax profile, in which case the attribution will be based on their particular ownership interests rather than streamed to create a tax advantage.

If the trustee does not include all of the assessable income or tax offsets of the AMIT (that is, all of the trust components) in determined member components attributed to members, the trustee will generally be taxed on any unattributed amounts.

For more information see also Law Companion Ruling LCR 2015/7 *Attribution Managed Investment Trusts: attribution on a 'fair and reasonable' basis* and AMIT trustee taxation.

Deemed payment

When an AMIT that is a withholding MIT gives a member an AMMA statement, the trustee may also be deemed to have made a payment to the member.

The amount of the deemed payment is relevant to working out the amount to be paid to us as non-resident withholding tax or TFN withholding tax.

In general terms, the total deemed payment made by an AMIT is the total amount of the determined member components of an assessable income character as shown in the AMMA statements less the total of all AMIT dividends, interest and royalties (DIR) payments and fund payments that arose in relation to any actual payments made in relation to the income year (pre-AMMA actual payments). This amount reflects the amount that has been attributed to the members, which may be different from the amount of actual payments made to the members.

To calculate the amount of deemed payment, the AMIT trustee must:

1. work out the total deemed payment at the fund level (that is, the total of all the amounts of a character relating to assessable income attributed to all the members, less the total of all AMIT DIR payments or fund payments that arise from pre-AMMA actual payments)

2. determine the amount of the deemed payment referable to each member on a fair and reasonable basis (whether a determination is fair and reasonable depends on the individual facts and circumstances)
3. work out how much of the deemed payment is
 - an AMIT dividend payment
 - an AMIT interest payment
 - an AMIT royalty payment
 - a fund payment
 - an amount subject to the TFN withholding provisions.

Where the withholding rules apply, the AMIT will need to pay an amount of tax to us for the deemed payment, equal to the amount it would be required to withhold if it were an actual payment. Non-resident withholding tax will generally not be payable if the deemed payment does not include an amount that is an AMIT dividend payment, an AMIT interest payment, an AMIT royalty payment or a fund payment. TFN withholding tax is not payable if the deemed payment does not include an amount subject to the TFN withholding provisions.

Example 1A: deemed payment calculated at the fund level not resulting in non-resident withholding tax

Trustee C is the trustee of the AMIT C which is a withholding MIT. There are 100 members of AMIT C who each hold the same number of units of the same class carrying equal entitlements to income and capital.

Table: Pre-AMMA actual payments in relation to the year

Component	First half distribution (\$)	Second half distribution (\$)	Total determined member components (\$)

Interest (see note)	Nil	2,000	2,000
Dividends (see note)	8,000	Nil	8,000
Assessable foreign source income	17,000	23,000	40,000
Total distribution	25,000	25,000	50,000

Note: the amount subject to a requirement to withhold under Subdivision 12-F.

Trustee C therefore calculated the total deemed payments to be \$40,000 as follows:

- Total determined member components – Total AMIT DIR payments = Deemed payment
- $\$50,000 - (\$2,000 + \$8,000) = \$40,000$

Further, Trustee C calculates the deemed payment to be comprised entirely of foreign source income.

Accordingly, Trustee C works out in relation to the deemed payment that there is a nil amount subject to non-resident withholding tax.

Further TFN withholding tax is not payable in relation to the deemed payment, as the amount calculated as the deemed payment was included in the distributions made during the year.

Example 1B: no requirement to reconcile deemed payment at member level

Assume the same facts as in Example 1A.

Member A (resident in New Zealand) held one unit and received the first half distribution of \$250 ($\$25,000 \div 100$ members of equal unit-holdings). Trustee C calculated that an AMIT dividend payment of \$80 arose in relation to the payment and so withheld \$12 from the distribution (that is, $\$80 \times 15\%$).

Member A then sold the unit to Member B (an Australian resident) who received the distribution for the second half.

The AMIT adopts the 'year-to-date' approach to calculate attribution to each member. Members are aware of this and it is part of the terms and conditions of the custody agreement. Accordingly, the AMIT calculates the percentage annual allocation of each component as shown in the following table.

Table: Annual component allocations

Component	Amount	Percentage
Interest	2,000	4%
Dividends: unfranked amount declared to be CFI	8,000	16%
Assessable foreign source income	40,000	80%
Total distribution	50,000	100%

Trustee C prepares AMMA statements for Member A and Member B with relevant extracts as shown in the following table.

Table: Member A and Member B extracts

Component	Member A AMMA statement extract	Member B AMMA statement extract

Interest	10	10
Dividends: unfranked amount declared to be CFI	40	40
Assessable foreign source income	200	200
Total distribution	250	250

Trustee C therefore calculates the total deemed payments to be \$40,000 as follows:

- Total determined member components – Total AMIT DIR payments = Deemed payment
- $\$50,000 - (\$2,000 + \$8,000) = \$40,000$

Further, Trustee C calculates the deemed payment to be comprised entirely of foreign source income.

Accordingly, Trustee C works out in relation to the deemed payment that there is a nil amount subject to non-resident withholding tax.

Note that there is no requirement to reconcile the amount shown on each AMMA statement with amounts on which withholding tax has previously been calculated. For example, withholding tax on the interim distribution to Member A is based on the distribution comprising a nil amount of interest. Although the AMMA statement for Member includes an amount of \$10 as interest income, this does not result in a deemed payment of interest to Member A.

Example 2: calculating deemed payment at the fund level

Trustee A is the trustee of the AMIT C which is a withholding MIT. There are 100 members of AMIT C who each hold the same number of units of the same class carrying equal entitlements to income and capital. Entity B is a foreign resident member of AMIT C.

In a particular income year, AMIT C's total determined member components of a character relating to assessable income (unfranked dividends) is \$50,000 and made total pre-AMMA actual payments of \$20,000 prior to the issue of the AMMA.

Trustee A works out the total deemed payment at the fund level by reducing the total determined member components of \$50,000 by the total pre-AMMA actual payments of \$20,000 (comprised entirely of unfranked dividends subject to non-resident withholding tax). The total deemed payment at the fund level is therefore \$30,000.

Trustee A then determines that the amount of the deemed payment taken to have been made to Entity B on a fair and reasonable basis is \$300 ($\$30,000 \div 100$ members of equal unit-holdings).

Trustee A issues an AMMA statement to Entity B for the amount of \$500 ($\$50,000 \div 100$ members of equal unit-holdings) and pays an amount to the Commissioner which is equal to the amount that Trustee A would have been required to withhold if the deemed payment of \$300 had been an actual payment.

Example 3: attributing deemed payments on a fair and reasonable basis

During the 2017 income year, AMIT D (which has 100 members and is a withholding MIT) had a parcel of 10,000 units held as follows.

- At 31 December 2016 – 10,000 units held by Entity E, an Australian resident.
- At 30 June 2017 – 10,000 units held by Entity F (40%) and Entity G (60%), both foreign residents.
- At 31 December 2016, AMIT D calculated components of an assessable income character of \$50,000. At 30 June 2017, AMIT D had total determined member components of \$80,000 (that is, a further \$30,000 in the second half of the year). There were no pre-AMMA actual payments made for the income year. The total deemed payments at the fund level is therefore \$80,000.

Investors are aware that tax is allocated based on estimated assessable income attributable to unitholders at a particular date. Therefore, it is fair and reasonable for the trustee of AMIT D to determine that the amount of the deemed payment taken to have been made to its unitholders is as follows:

- A deemed payment of \$50,000 is referable to Entity E as he was the sole unitholder as at 31 December 2016. AMIT D issues an AMMA statement to Entity E for the amount of \$50,000 and no withholding was required as Entity E is an Australian resident.
- A deemed payment of \$12,000 is referable to Entity F as she was the unitholder of 40% of the 10,000 units as at 30 June 2017. AMIT D issues an AMMA statement to Entity F for the amount of \$12,000 and pays an amount to the Commissioner which is equal to the amount that AMIT D would have been required to withhold if the deemed payment had been an actual payment.
- A deemed payment of \$18,000 is referable to Entity G as he was the unitholder of 60% of the 10,000 units as at 30 June 2017. AMIT D issues an AMMA statement to Entity G for the amount of \$18,000 and pays an amount to the Commissioner which is equal to the amount that AMIT D would have been required to withhold if the deemed payment had been an actual payment.

Example 4: fair and reasonable to comply with the Constitution of the trust

Assume the same facts as in Example 2, but instead assume that the constitution of AMIT D provides that any deemed fund payments under section 12A-205(2) of Schedule 1 to the *Tax Administration Act 1953* is to be treated as being referable to the unitholders existing at the final record date of the income year to which the payment relates.

It would be fair and reasonable for the trustee of AMIT D to determine that the amount of the total deemed payments of \$80,000 is allocated in Entity F's AMMA statement as \$32,000 and in Entity G's AMMA statement as \$48,000. The allocation is based on the respective entitlements of Entity F and Entity G as at the final record date of the income year. No part of the deemed fund payment is allocated to Entity E as he was not a unitholder at the final record date of the income year.

For more information, see [Withholding for MITs](#).

Annual investment income report (AIIR)

An AMIT reports the amounts attributed to members to us using an **Annual investment income report (AIIR)**. All AMITs are required to submit an AIIR, regardless of how many members are in the trust. We will use the AIIR as a record of the amount of income each member has been attributed by the trust.

AMMA statement

An AMIT has an obligation to give each member an attribution MIT member annual (AMMA) statement no later than three months after the end of the income year.

The AMMA statement sets out the determined member components that an AMIT attributes to the member for that income year, that is the income and tax offset amounts attributed to the member. The member then uses the information in the AMMA statement to complete their own tax return. Essentially, the AMMA statement replaces the standard distribution statement provided by other types of investment trusts.

While the AMMA statement is not required to be in a form approved by the ATO, it must contain certain information for the member, which includes:

- the amount and character of each determined member component for the income year
- amounts that affect the cost base of the member's unit or interest in the AMIT (that is, the AMIT net cost base amount).

If an AMIT fails to give an AMMA statement, the trustee may be liable to penalty.

QC 47436

Cost-base adjustments for AMIT members

The cost base of units in the AMIT that are CGT assets can be adjusted.

Last updated 22 February 2023

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[AMIT cost base net amount](#)

[CGT event E10](#)

[Non-assessable amounts, tax-deferred and tax-free distributions](#)

The cost base of your units in the AMIT that are CGT assets can be adjusted both upward and downward (upward adjustments were not previously allowed). Your cost base is adjusted at the end of each income year by the 'AMIT cost base net amount'.

AMIT cost base net amount

The AMIT will calculate an AMIT cost base net amount for the income year in relation to your units or interests in the AMIT and must state it in your AMMA statement. You will then need to apply the AMIT cost base net amount to adjust the cost base and reduced cost base of your units or interests in the AMIT.

The AMIT cost base net amount is the balance of your cost base reduction amount and your cost base increase amount.

Effectively, the cost base of your membership interests is **increased** by any assessable income (including amounts of trust capital gains) and non-assessable non-exempt (NANE) income you are attributed from the trust, while your cost base is **reduced** by any actual payments you receive (or are entitled to receive) and any tax offsets you have for amounts attributed to you.

The reduction and increase amounts are netted off against each other each year to result in either a net increase or decrease to your cost base amount (that is, your AMIT cost base net amount), which you will then use in your own cost base calculations.

The AMIT cost base net amount broadly represents any difference between amounts that are included in your assessable income (or NANE income) for the AMIT and actual distributions you receive from the AMIT.

When assessable and NANE amounts attributed to you are **more** than the actual payments (or entitlements) and tax offsets:

- the AMIT cost base net amount will reflect a net cost base increase amount
- this increases your cost base and reduced cost base
- you have reduced capital gain or increased capital loss on the disposal of your units.

When assessable and NANE amounts attributed to you are **less** than the actual payments (or entitlements) and tax offsets:

- the AMIT cost base net amount will reflect a net cost base reduction amount
- this reduces your cost base and reduced cost base
- you have greater capital gain or reduced capital loss on the disposal of your units.

If the reduction amount is greater than your cost base amount, it reduces your cost base to nil. In this case **CGT event E10** is triggered – the gross capital gain is the balance of the AMIT cost base net amount.

Where you hold your interest in the AMIT as a revenue asset (and it is not a Division 230 financial arrangement), you will need to use the AMIT cost base net amount to make similar adjustments to the cost of your interests when working out any revenue gain or loss when you dispose of your interests.

CGT event E10

Once your cost base is reduced to nil, any remaining AMIT cost base net amount will trigger CGT event E10 and you will have a capital gain equal to the excess amount.

In effect, the reduction in the cost base to nil means that you have fully recovered the cost of your asset, so that any extra amount applied to reduce your cost base is a return on your asset.

Where you hold your interest in the AMIT as a revenue asset (and it is not a Division 230 financial arrangement), any excess AMIT cost base net amount remaining after reducing the cost of your interests in the AMIT to nil will be included in your assessable income.

Non-assessable amounts, tax-deferred and tax-free distributions

Non-assessable amounts such as tax-free and tax-deferred amounts are not directly relevant to determining cost base adjustments for a member's interests in AMITs, although they should broadly be reflected in the AMIT cost base net amount.

Where such non-assessable amounts are distributed to members of an AMIT, they will not be otherwise assessable to the member. This assumes that:

- the amounts are not remuneration or consideration for providing finance, services, goods or property
- the membership interest, for which the distribution is made, is neither trading stock nor a Division 230 financial arrangement of the member.

For more information, see Law Companion Ruling LCR 2015/11
*Attribution Managed Investment Trusts: annual cost base adjustments
for units in an AMIT and associated transitional rules.*

QC 47436

Member's choice

In selected circumstances, an AMIT member can choose a different determined member component of a particular character.

Last updated 23 July 2025

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[Requirements for making a member's choice](#)

[How to make a member's choice](#)

[Write to us](#)

[For businesses and tax agents](#)

A taxpayer is responsible for ensuring that the taxable income reported in their income tax return is correct. A unit holder of an AMIT will rely on information provided in their AMMA statement to determine the amount to include in their assessable income. However, taxpayers must make appropriate judgments based on all of the information available to them to ensure they report the correct amount of assessable income in their tax return.

In some unusual circumstances, a member may conclude that they cannot reasonably rely on the accuracy of the determined member component amount as stated in their AMMA statement. In that case, the member can make a choice to nominate a different determined member component of a particular character for the income year.

Requirements for making a member's choice

The choice can be made by a member only if they can show that either:

- the AMIT has not worked out the member component of a particular character for an income year on a fair and reasonable basis in accordance with the constituent documents of the AMIT
- the AMIT has inappropriately streamed particular character amounts to a particular member in a way that is inconsistent with the constituent documents.

The choice must be made in writing and given to us within **four months** of the end of the member's income year. In addition, the choice must state:

- the income year to which the choice relates
- what the member considers their member component of the particular character for the income year to be
- why the member considers the determined member component of the particular character was not worked out by the AMIT on a fair and reasonable basis in accordance with its constituent documents or was inappropriately streamed to members.

If an AMIT gives the member a revised AMMA statement for an income year, the member must instead notify us of making a member's choice within **four months** of the date the revised AMMA statement is given. The member may need to amend their return for the respective income year.

How to make a member's choice

If you're a member of an AMIT and you believe the determined member component of a particular character has been incorrectly attributed to you, you should contact the AMIT.

After discussing it with the AMIT, if you believe you need to make a member's choice, you must notify the AMIT in writing.

You must also notify us in writing. The steps to follow are:

1. Include the member's choice amount in your tax return. Your tax return will be processed under self-assessment – that is, we will initially accept the information you give us at face-value, but we may review it at a later time.
2. Write to us at the address below (or using our online services), state that you are making a 'Member's choice' in relation to your AMIT attribution, and include all of the following information:

If you have already lodged your return for an income year and now need to make a member choice for that year (for example, because you've received a revised AMMA statement from the AMIT), you will need to lodge an amended return or write to us requesting an amendment for that income year. You must also satisfy the [requirements for making a member choice](#).

Write to us

Send the required member notification information to:

Australian Taxation Office
GPO Box 9990
[insert the name and postcode of your capital city]

For example:

Australian Taxation Office
GPO Box 9990
SYDNEY NSW 2001

If you are sending your letter from overseas, replace 'IN YOUR CAPITAL CITY' with:

SYDNEY NSW 2001, AUSTRALIA

For businesses and tax agents

If you have access to either **Online services for business** or **Online services for agents**, you can include the required member notification information in a new message and lodge it through those services.

To ensure your member notification is processed correctly, make the following selections when creating your new message to us:

- select the **Income tax** mail topic list

- select the subject **Notification – AMIT member choice under section 276-205 of the ITAA 1997**.

A character limit may apply to messages submitted through online services. If your information exceeds that limit, you may attach a file to the message containing the required information.

Note: Under *Taxation Administration Act 1953*, we are authorised to request your TFN. It is not an offence not to provide your TFN. However, if you do not provide your TFN, the processing of your member's choice may be delayed. Tax law authorises us to collect information and to disclose it to other government agencies. See [Our privacy policy](#) for more information.

QC 47436

Unders and overs for AMITs

How to deal with under or over estimations of AMIT income.

Last updated 23 July 2025

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[Unders](#)

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[Applying the unders and overs system](#)

Trustees of MITs can experience difficulty in obtaining final information to allow them to **calculate the income and net income of the trust** within a reasonable time at the end of each financial year. Therefore, they will need to make an estimate of the amounts to report to both the ATO and their members by the required reporting dates.

Revisions may be required at a later time to ensure that the correct amounts are reported. Variances can occur because:

- calculations are complex
- rounding discrepancies can arise, for example where the income amount cannot be divided between members evenly and in a practical way
- the MIT typically has incomplete or interim information at the time it needs to calculate trust components.

If a revision occurs, the amounts initially reported to members may overstate or understate the correct amount of their share of the net income of the trust. Before the error is identified to them, members may have already included the incorrect amounts in their **income tax returns**.

For attribution managed investment trusts (AMITs), unders and overs arise and can be dealt with in the income year in which they are discovered, called the 'discovery year, rather than the income year they relate to. The year that the under or over relates to is called the 'base year'.

Unders

An under-estimation of a particular character in an income year results in an 'under' of that character. This means that the trustee has understated the amount attributed to a member and will need to reconcile the amount by increasing the particular character amount in the discovery year or upwardly revising the character amount in the base year.

Overs

An over-estimation of a particular character in an income year results in an 'over' of that character. This means that the trustee has overstated the amount attributed to a member and will need to reconcile the amount by decreasing the particular character amount in the discovery year or downwardly revising the character amount in the base year.

Applying the unders and overs system

To apply the unders and overs system, the trustee of an AMIT must determine if there is an under or over for a base year. If there is, the

trustee needs to either:

- adjust a trust **component** in the discovery year
- reconcile the under or over in the income year to which it relates by revising the determined trust components for the base year and reissuing AMMA statements for that base year. Members will need to use the revised AMMA statement to complete their tax return for the base year.

If the trustee chooses to reconcile the under or over in the discovery year, then:

- in the case of an under of a particular character – the trust component of that particular character is increased in the discovery year
- in the case of an over of a particular character – the trust component of that particular character is decreased in the discovery year. However, the amount of the trust component of a particular character cannot be reduced below nil.

It is up to the trustee of an AMIT to determine how it will reconcile unders and overs – that is, whether to reissue AMMA statements for the base year or use the unders and overs system to make adjustments to the trust components of particular characters in the discovery year.

Where the trustee chooses to reissue AMMA statements for a previous year, they will also need to lodge an amended Annual Investment Income Report (AIIR) to avoid discrepancies in beneficiary data.

If the under or over is the result of an intentional or reckless disregard of the law by the trustee, the trustee may be liable to pay an administrative penalty.

If a trust ceases to be an AMIT

If a trust ceases to be an AMIT for an income year, it will need to continue to identify unders and overs relating to the period that the trust was an AMIT.

The trust will need to continue to work out unders and overs relating to a base year during which the trust was an AMIT. The trust can still account for unders and overs that relate to the period it was an AMIT in later income years (the discovery year), by making appropriate

adjustments for the purposes of applying the trust provisions in Division 6 of the ITAA 1936.

However, the trust does not have to reconcile unders or overs of a particular character for a base year once the amendment period for the base year has expired (that is, generally four years after the document for working out the determined trust component for the base year was created).

Treatment for the discovery year

If the trust discovers an under or over that increases the amount of a particular character for the discovery year (worked out on the basis that the trust continued to be an AMIT) then the trust must treat that amount according to its original character in the discovery year. If the relevant character relates to:

- assessable income – treat the amount of the increase as assessable income of the trust – this may have the effect of increasing the net income of the trust (for an increase in the amount of a discount capital gain, treat the trust as having double the amount of any discount capital gain)
- exempt income – treat the amount of the increase as exempt income of the trust
- non-assessable non-exempt income – treat the amount of the increase as non-assessable non-exempt income of the trust
- a tax offset character – treat the amount of the increase as a tax offset of the trust of a kind corresponding to that character.

If the trust discovers an under or over that decreases the amount of a particular character for the discovery year, then the trust must treat that amount according to its original character in the discovery year. If the relevant character is:

- a discount capital gain, the trust must treat half of the amount of the decrease as a capital loss of the trust for the discovery year
- a non-discount capital gain, the trust must treat the amount of the decrease as a capital loss of the trust for the discovery year
- assessable income other than a capital gain, the trust must treat the amount of the decrease as a deduction of the trust for the discovery year

- exempt income, the trust must treat the amount of the decrease as reducing the exempt income of the trust for the discovery year
- non-assessable non-exempt income, the trust must treat the amount of the decrease as reducing the non-assessable non-exempt income of the trust for the discovery year
- a tax offset, the trust must generally treat the amount of the decrease as reducing the tax offset or offsets of the trust for the discovery year of a kind corresponding to that character.

However, in the case of a tax offset that exceeds the total of the existing tax offsets of the trust, the trustee is liable to pay tax on the amount of the excess at a rate of 100%. For an excess tax offset amount relating to a foreign income tax offset, the trust's assessable income from foreign sources is instead increased by an amount equal to:

$$\text{Excess tax offset amount} + (\text{Excess tax offset amount} \times 70 \div 30)$$

QC 47436

Multi-class elections for AMITs

An AMIT can choose to treat separate classes within the trust as if they were separate AMITs.

Last updated 23 July 2025

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[Trust assets in a multi-class trust](#)

[Lodgment requirements for multi-class AMITs](#)

Using the attribution system, where the interests in the income and capital of the AMIT are divided into separate classes, the AMIT will be able to apply the attribution regime separately to each class of interests if:

- the rights in the income and capital of the particular class are the same for every membership interest in that class
- each of those interests in a particular class is distinct and different to the interests in another class
- the trustee has made a choice to apply the attribution regime separately to each class of interests.

Once the trustee chooses to use the multi-class treatment, the choice cannot be revoked.

Each class will effectively be treated as a separate AMIT. On this basis, the trust components and member components will be calculated for each class as though they were a separate AMIT, rather than across the AMIT as a whole.

Where a class makes a tax loss for an income year, and other classes have positive taxable income, the losses are quarantined within the class and not shared by the other classes. The class with the tax loss will have nil trust and member components and will carry forward the loss within that class to a future income year.

However, the multi-class treatment only applies once a trust qualifies as an AMIT. That is, for the purpose of determining whether a MIT qualifies as an AMIT, an AMIT with multiple classes will continue to be treated as a single entity.

The same will apply for withholding purposes – while the AMIT withholding rules apply separately to each class, it is sufficient that the AMIT as a whole qualifies as a withholding MIT, rather than each class qualifying as a **withholding MIT** in its own right.

Trust assets in a multi-class trust

Where possible, each class is treated as having separately identified assets to other classes within the AMIT. The assessable income and deductions and other trust attributes relating to that class will be identified by the assets supporting that class.

Transactions and events involving those assets will need to be recognised for tax purposes as though the class was a separate AMIT. This will ensure that the tax attributes attributable to one class of interest will not be mixed with those of other classes.

For classes within the AMIT that have separately identified assets, any movement or transfer of assets between classes may have CGT implications due to each class being treated as a separate AMIT.

Where the assets of the AMIT are pooled, each class's share of the pooled assets should be determined on a reasonable basis. The assessable income and allowable deductions of the trusts must be allocated across the classes according to each class's appropriate share of the trust's pooled assets and the AMIT's constituent documents.

Selectively directing tax attributes from pooled assets to different classes that have shared those assets could be considered 'streaming' and not an allocation on a fair and reasonable basis. Tax losses, net capital losses or expenditure that does not relate solely to a particular class must also be allocated between each class on a fair and reasonable basis.

For more information, see Law Companion Ruling LCR 2015/5 *Attribution Managed Investment Trusts: choice to treat separate classes as separate AMITs*.

Lodgment requirements for multi-class AMITs

Using the AMIT tax return, an AMIT that elects to apply multi-class treatment will need to lodge a separate AMIT schedule for each class. There is no requirement to lodge a separate tax return for each class.

QC 47436

Debt-like trust instruments – AMITs

A debt-like trust instrument in an attribution MIT (AMIT) is treated as a debt interest.

Last updated 23 July 2025

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[What is a debt-like trust instrument](#)

[Why a debt-like trust instrument is treated as a debt interest in the AMIT](#)

A holder of debt-like trust instrument is treated as not being a member of the AMIT, and distributions relating to the instrument are generally treated as 'interest'.

What is a debt-like trust instrument

An instrument is a debt-like trust instrument if it has all of the following features:

- Any distribution relating to the interest is fixed at the time the interest was created, by reference to the amount of the interest.
- Any distribution relating to the interest is made solely at the discretion of the trustee.
- The interest would rank above all other membership interests (apart from other debt-like trust interests) in the event that the trust ceases to exist, or is under administration or being wound up.
- If the trustee does not make a distribution relating to the interest within a particular period, then the constituent documents of the trust prohibit
 - distributions relating to any other membership interest in that period
 - distributions relating to a membership interest in another entity that are stapled together with the membership interest in the AMIT, in that period.

Why a debt-like trust instrument is treated as a debt interest in the AMIT

The objective of treating a debt-like trust instrument as a debt interest in the AMIT is to ensure that:

- the holders of debt-like instruments will not be treated as members of the trust, for the purposes of working out whether the trust qualifies as a MIT or an AMIT– the instrument is not included in the widely held and closely held tests, or the clearly defined interests tests
- the attribution rules do not apply to the holders of debt-like trust instruments, including the unders and overs regime
- debt-like instruments are treated as debt for the purposes of applying other provisions in the income tax law (such as the thin capitalisation provisions)
- a distribution in relation to the instrument is treated as interest for the purposes of the interest withholding tax provisions
- a distribution in relation to the instrument is treated as interest, so that it may also be treated as a deduction in working out the trust components of an AMIT.

QC 47436

AMIT reporting requirements

AMITs are required to report to us and their members for each income year they are an AMIT.

Last updated 23 July 2025

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[Annual investment income report \(AIIR\)](#)

[Attribution MIT member annual statement \(AMMA\)](#)

[AMIT tax return](#)

[AMIT tax schedule](#)

[Other schedules](#)

Annual investment income report (AIIR)

An AMIT is required to lodge an Annual investment income report (AIIR) for each income year to the ATO, reporting attributions made to its members. The information the AMIT supplies in the AIIR will mirror the information provided to each member in the AMMA statement, which will include the information each member will need to complete their tax return.

Any entity that is an investment body must give an AIIR to the ATO for a financial year. If the entity has fewer than 10 investments of the kind that are subject to the tax file number (TFN) rules (Part VA investments), the entity may not be required to give the report to us.

However, in order to support the attribution method, a MIT (including an AMIT) must give an AIIR to us for a financial year, even where the total number of Part VA investments for which it was an investment body is fewer than 10. Requiring the AIIR in this way will alleviate the need for AMITs to provide member information in both the AMIT tax return and AIIR. The AIIR will become the primary source of information for us about the amounts attributed to members.

If the trustee reissues AMMA statements, they should also lodge an amended AIIR to ensure beneficiary data has been reported consistently.

Attribution MIT member annual statement (AMMA)

An AMIT is required to give an AMMA statement within 3 months of the end of the income year to each person who was a member during the income year.

The AMMA statement sets out the member's determined member components for the income year, and will provide all attribution, distribution and cost-base adjustment information to the member to allow them to fulfil their own income tax obligations. The objective of the AMMA statement is to ensure that the information provided by the trustee to a member is sufficient for that member to complete their income tax return.

The AMMA statement must contain certain information for the member, including:

- information that reflects the amount and character of each determined member component of the member
- the amount of the AMIT cost base net amount for the income year for the CGT asset that is the member's unit or interest in the AMIT.

However, the trustee of an attribution MIT is not required to give an AMMA statement to a member if:

- all of the member's determined member components for the income year are nil
- the member's AMIT cost base net amount for the income year is nil.

The AMMA statement can be reissued in later years by the trustee of the AMIT if they identify inaccuracies or amounts that should have been attributed to members in previous years. The revised AMMA statement replaces the previous AMMA statement provided. However, a revised AMMA statement must be given to the member no later than four years after the end of the income year to which the AMMA statement relates in order to be effective.

If the trustee reissues an AMMA statement, they should also amend the AIIR to ensure there are no discrepancies in beneficiary data.

AMIT tax return

MITs that elect to become attribution MITs (AMITs) must lodge a tax return that is specific to AMITs. MITs who have not chosen to be an AMIT will continue to use the trust income tax return. An AMIT tax return can only be lodged electronically.

The AMIT tax return and tax schedule is tailored to the AMIT regime and captures information relevant to AMITs to provide a streamlined lodgment. To help reduce the compliance burden, the AMIT tax return makes use of existing reporting channels for attribution information relating to members (other than foreign residents) by using information captured via the Annual Investment Income Report (AIIR).

The trustee of an AMIT is liable to pay income tax on certain amounts. The trustee may self-assess the following liabilities:

- trust component deficit of characters relating to tax offsets

- shortfall in determined member components of character relating to assessable income
- excess in determined member component of character relating to a tax offset
- determined trust components that are not reflected in member components.

Statement of attribution

The AMIT tax return includes a Statement of attribution, which operates to capture amounts on which the trustee will be assessed on foreign residents' determined member components.

The Statement of attribution must be completed by an AMIT that is **not** a withholding MIT for each foreign resident member attributed an amount on which the trustee is liable to pay tax.

A Statement of attribution does not need to be completed for a foreign resident member for which the trustee has no liability. A withholding MIT will not be required to complete this section.

See AMIT trustee taxation for more information.

AMIT tax schedule

The trustee will need to lodge at least one AMIT tax schedule with its AMIT tax return.

If the trustee has chosen to apply separate AMIT treatment for multiple classes within the trust, one AMIT tax schedule needs to be completed for each class.

Characters

The AMIT tax schedule requires trustees to show certain determined trust component calculations for each character – the amount that was used as the basis for attribution.

The characters are grouped by their relationship to:

- assessable income
- exempt income
- non-assessable non-exempt income (NANE)

- tax offsets.

All assessable income characters are aggregated into a single amount, other than those relating to capital gains, which must be aggregated separately.

Capital gains

Consistent with current reporting, information relating to capital gains tax (CGT) will be captured via the CGT Schedule on a separate class basis, where each class has a gross capital gain or loss of \$10,000 or more. If there is a single class in the AMIT, the \$10,000 threshold for a CGT schedule will apply to the AMIT as a whole.

Losses information

Where the trustee of a multi-class AMIT has made an election to treat each class as a separate AMIT, tax losses in one class cannot be used to offset income in another class. For these multi-class AMITs, losses will need to be identified separately for each class. This information will be captured on the AMIT tax schedule for each class.

This means that an AMIT will not be required to lodge a separate Losses schedule.

Other schedules

An AMIT may lodge additional informational schedules that are currently available to trusts, and include schedules for:

- capital gains tax (CGT)
- international dealings
- rental property
- payment summary.

Ceasing to be an AMIT

When a trust that was an AMIT ceases to be an AMIT for a later income year, it will no longer need to lodge an AMIT tax return and must instead lodge a trust tax return.

However, if the ex-AMIT discovers unders or overs within four years of the relevant base year (that is, the year to which the under or over relates), an AMIT tax schedule will need to be included with the trust tax return reporting only the unders or overs information.

An ex-AMIT that had elected multi-class treatment must aggregate all unders or overs information for its classes in the tax schedule, as the multi-class treatment does not apply once the ex-AMIT has ceased to be an AMIT.

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AMIT trustee taxation

Generally, the trustee of an AMIT will be taxed where the income of the trust is not taxed at member level.

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Shortfall taxation – income character shortfall

The trustee of an AMIT is liable to pay tax if a member's **determined member component** of an assessable income character falls short of the member component of that character. The amount of the shortfall

will not be included in the member's assessable income; therefore the trustee will be liable to pay the tax to ensure the amount is appropriately taxed.

Similarly, if the sum of all determined member components of an assessable income character falls short of the determined trust component of that character for the income year, the trustee will be liable to pay tax on the shortfall. The amount liable to tax is reduced by any rounding adjustment deficit and any member-specific shortfall already taxed as discussed above.

Shortfalls can occur where the taxable income of the AMIT for an income year is not fully attributed to members or where amounts are attributed in a way that is not consistent with the attribution principles.

In these circumstances, the trustee is liable to pay tax on the amount of the shortfall at the top marginal tax rate for a resident individual (including the Medicare levy and any temporary Budget repair levies).

If the member component or the determined member component is of a character that is a discount capital gain, then for the purposes of working out the amount that the trustee is liable to pay income tax on, the amount of the component is doubled. This ensures that the trustee is liable to pay income tax on the component as though it were not a discount capital gain.

If the discrepancy is from mistakes made in the calculation of determined trust components in one year, it can be fixed in the year the mistakes are discovered without the need to amend previous tax returns, using the overs and unders regime. The opportunity to correct mistakes using the unders and overs regime is subject to a limited discovery period, which is generally four years after the determined trust component for the base year was documented. A mistake that understates an amount of assessable income is an 'under'.

The trustee would not be liable for shortfall taxation where a mistake that creates an under is corrected in the discovery year, unless the trustee fails to recognise all or part of an under in the year it should have been discovered.

Shortfall taxation will not apply to rounding adjustment deficits.

For more information, see:

- Law Companion Ruling LCR 2015/9 *Attribution Managed Investment Trusts: trustee shortfall taxation – section 276-420*

- Determined trust component
- Member component

Excess in determined member component of a tax offset

The trustee of an AMIT is liable to pay tax if, for a particular income year, the **determined member component** of a tax offset character exceeds the **member component** of that character.

In these circumstances, the trustee is liable to pay tax on the amount of the excess at a rate of 100%.

If an excess amount of tax offset is attributed to a member, the amount of the excess tax offset will be applied by the member to reduce the amount of tax that they must pay (and may give rise to a refundable tax offset). Therefore, to ensure that tax revenue is not disadvantaged, the trustee is liable to pay tax on the amount of the excess in these circumstances.

Unders of assessable income not properly carried forward

The trustee of an AMIT is liable to pay tax if the AMIT has:

- an **under** of a particular assessable income character for an earlier income year, worked out on the basis of the trustee's knowledge at the discovery time, and
- the amount of the **under** falls short of what it would have been if it had been worked out on the basis of what the trustee **should** have known at that time.

The trustee is liable to pay tax on the amount of the shortfall reduced to the extent that the under for the base year is taken into account in a later income year.

In these circumstances, the trustee is liable to pay tax on the amount of the shortfall at the top marginal tax rate for a resident individual (including the Medicare levy and any temporary Budget repair levies).

The trustee of an AMIT could be assessed on an under of assessable income of a particular character that is not properly carried forward

because, for example, the trustee and the ATO disagree on the interpretation of a provision in the income tax law. If the trustee of an AMIT disagrees with the assessment, they may object to the assessment. See **Unders and overs for AMITs** for more information.

Overs of a tax offset not properly carried forward

The trustee of an AMIT is liable to pay tax if the AMIT has:

- an **over** of a tax offset character for an earlier income year (the base year), worked out on the basis of the trustee's knowledge at the discovery time, and
- the amount of the **over** falls short of what it would have been if it had been worked out on the basis of what the trustee **should** have known at that time.

The trustee is liable to pay tax on the amount of the shortfall reduced to the extent that the over for the base year is taken into account in a later income year. The trustee is liable to pay tax on the amount of the excess at a rate of 100%.

As an over of a tax offset results in a member's tax liability being reduced by an equivalent amount, or potentially a refund of any excess tax offset, the amount of tax that the trustee is liable to pay is equal to the amount of that over of the tax offset.

The trustee of an AMIT could be assessed on an over of a tax offset not properly carried forward because, for example, the trustee and the ATO disagree on the interpretation of a provision in the income tax law. If the trustee of an AMIT disagrees with the assessment, they may object to the assessment.

See **Unders and overs for AMITs** for more information.

AMITs that are not withholding MITs

The trustee of an AMIT that is not a withholding MIT is liable to pay income tax if a member is a foreign resident at the end of the income year and has been attributed assessable income for the income year.

If the foreign-resident member is **not** a beneficiary in the capacity of a trustee of another trust, the AMIT is liable to pay income tax on the

determined member component to the extent that the component is either:

- attributable to a period when the member is an Australian resident
- attributable to a period when the member is a foreign resident and is income from an Australian source.

In these circumstances, the rate of tax payable by the trustee on the relevant determined member component is either:

- the marginal tax rates that apply to a foreign resident individual (including any temporary Budget repair levies) if the member is not a company
- the standard corporate tax rate (which is currently 30%) if the member is a company.

If the foreign-resident member is a beneficiary in the capacity of a trustee of another trust, the AMIT is liable to pay income tax on the determined member component to the extent that the component is attributable to sources in Australia. The rate of tax payable by the AMIT trustee in these circumstances is the maximum marginal tax rate (including any temporary Budget repair levies) that applies to a foreign resident individual.

A determined member component that is a capital gain (or a discount capital gain) from a CGT asset that is not taxable Australian property is not taken to be attributable to sources in Australia and not subject to trustee taxation. If the determined member component is a discount capital gain, then the amount is doubled for the purposes of working out the amount the trustee is liable to pay income tax on. This ensures that the trustee is liable to pay income tax on the component as though it were not a discount capital gain.

If the trustee is liable to pay tax on the determined member component attributed to a foreign resident member, the member is entitled to a refundable tax offset equal to the amount of tax paid by the trustee.

However, the trustee is not liable to pay income tax where the determined member component is an AMIT dividend, interest or royalty (DIR) payment or a fund payment when an amount for that payment has been withheld or paid by the trustee under the withholding provisions.

Arm's length income

The arm's length income rule is an integrity rule that will apply if the Commissioner makes a determination that specifies an amount of non-arm's length income in relation to a MIT for a specified income year.

If the Commissioner makes such a determination, the trustee of the MIT or AMIT is liable to tax on the amount of non-arm's length income that exceeds what would have been expected had the parties been acting at arm's length (less deductions that are reflected in the AMIT's trust components or a MIT's net income for the income year, and that are attributable only to the excess amount of the non-arm's length income).

The rate of tax that is payable in relation to the non-arm's length income is the standard corporate tax rate (currently 30%).

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Penalties for AMITs

The trustee of an AMIT may be subject to administrative penalties where particular rules are not followed.

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Failure to give an AMMA

The trustee of an AMIT may be liable to an administrative penalty if they fail to give AMMA statements to AMIT members by the required

time. The AMMA statement for an income year must be given to the member no later than three months after the end of the income year (see [Amount of penalty](#)).

Under or over: intentional or reckless disregard

The trustee of an AMIT is liable to an administrative penalty if it has an under or an over for a base year which resulted from the intentional or reckless disregard of the law by the trustee.

An administrative penalty does not apply where the under or over is reduced because the AMIT has reissued AMMA statements for the base year.

The administrative penalty applies separately to each under or over that the AMIT has for the base year.

The amount of penalty will depend on whether there has been intentional disregard or reckless disregard. If both apply, the penalty applicable to an intentional disregard (which produces the greater amount of penalty) applies to the under or over. These penalties are consistent with the administrative penalties that arise when an individual taxpayer intentionally or recklessly disregards the law in relation to their own income tax affairs.

Intentional or reckless disregard of the law in a particular circumstance is determined in a manner consistent with the existing framework for administrative penalties.

The trustee would not ordinarily be taken to have intentionally or recklessly disregarded the law where – in working out estimates of the trust components of particular characters that are attributed to members – the trustee:

- uses published estimates of amounts expected to be received by the AMIT from third-party funds
- contacts third-party fund managers to request estimates of amounts expected to be received by the AMIT from that third-party fund and, when provided, uses those estimates
- makes reasonable estimates of the distribution yield and tax components based on historical yield and tax component data.

For more information, see:

- Unders and overs for AMITs
- Law Companion Ruling LCR 2015/10 *Attribution Managed Investment Trusts: administrative penalties for recklessness or intentional disregard of the tax law – section 288-115*

Trustee enters a scheme to reduce tax liabilities

An administrative penalty will be imposed on taxpayers who enter into a scheme to reduce their tax liabilities. The administrative penalty also applies when the trustee of a MIT or AMIT enters into a scheme to derive non-arm's length income.

Therefore, the trustee of a MIT will be liable to an administrative penalty if both of the following occur:

- We amend an assessment issued to the trustee for the income year under the non-arm's length income rules.
- As a result, the trustee is liable to pay an additional amount of income tax.

If the trustee of a MIT or AMIT is liable to an administrative penalty, then the base penalty amount is generally either:

- 50% of the scheme shortfall amount
- 25% of the scheme shortfall amount if it is reasonably arguable that the adjustment provision in the non-arm's length income rule does not apply.

The scheme shortfall amount is the total additional income tax that the AMIT is liable to pay as a result of the Commissioner's determination of non-arm's length income or other ATO amendment.

Penalty amounts

Amount of penalty, by type

Penalty	Amount of penalty
Failure to give an AMMA statement	Depends on circumstances, one penalty unit for each period or part

	period of 28 days starting on the day the document is due and ending on the day you give it (up to a maximum of five penalty units).
Trustee enters into a scheme to reduce tax liabilities	<p>Either:</p> <ul style="list-style-type: none"> • 50% of the scheme shortfall amount • 25% of the scheme shortfall amount if it is reasonably arguable that the non-arm's length income rule does not apply.

Amount of penalty for unders and overs

Type of behaviour	Unders relating to assessable income, exempt income and non-assessable non-exempt income characters and overs of tax offset characters:	Overs of assessable income, exempt income and non-assessable non-exempt income characters and unders of tax offset characters:
Intentional disregard	75% of the under or over, multiplied by 47% (see note)	The lesser of 30% of the under or over, multiplied by 47% (see note), and 60 penalty units
Recklessness	50% of the under or over, multiplied by 47% (see note)	The lesser of 20% of the under or over, multiplied by 47% (see note), and 40 penalty units

Note: The penalty is worked out based on a 47% rate – that is, the highest marginal tax rate plus the Medicare levy. However, if the base year is an income year in which a temporary budget repair levy applies, the amount of the penalty needs to include an additional 2% to allow for the levy – a 49% rate will apply.

Withholding rules

MITs and AMITs must withhold income tax when making certain payments to a non-resident member.

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The tax withheld is a final tax on the non-resident's Australian earnings and will usually match the amount of the taxpayer's subsequent tax liability on the income.

The rate of tax to be withheld from payments to non-resident members will vary according to whether the member is a resident of a country that has a **tax treaty** or exchange of information agreement with Australia, and whether the amount is either:

- a payment of dividends, interest and royalties (DIR)
- a 'fund payment'.

A member is generally subject to withholding where their residential address or the place of payment is outside of Australia.

- Stapled structures
- MIT withholding tax refund or top-up payment

Withholding for MITs



The withholding obligations for a MIT or an AMIT depend on whether or not it is a withholding MIT.

Withholding for AMITs



How aspects of the attribution regime for MITs affect the withholding requirements for AMITs

Withholding on fund payments for MITs



Withholding MITs and custodians may be required to withhold an amount from a fund payment.

Withholding on dividend, interest and royalty payments for MITs



A MIT or AMIT must withhold from unfranked dividends, interest and royalty payments to foreign resident members.

Applying the new withholding rules from 1 July 2015



Information for to trustees of qualifying MITs that choose to apply the MIT rules that were enacted on 5 May 2016.

Implications of MIT withholding for foreign residents



Withholding tax on selected payments from Australian MITs and AMITs is a final tax imposed on foreign residents.

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Withholding for MITs

The withholding obligations for a MIT or an AMIT depend on whether or not it is a withholding MIT.

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When a trust is or is not a withholding MIT

A trust is a withholding MIT, in relation to an income year, if:

- it is a MIT (subject to certain exceptions), or would be a MIT, in relation to the income year except for either
 - temporary circumstances outside of its control
 - the trustee of the trust does not make a fund payment in relation to the income year but meets the MIT requirements on the first and last day of the income year
- a substantial proportion of the investment management activities are carried out in Australia throughout the income year for assets that are
 - situated in Australia at any time in the income year
 - taxable Australian property at any time in the income year
 - Australian stock exchange listed shares, units or interests.

An AMIT that only makes deemed payments to members can be a withholding MIT.

If a MIT or an AMIT is **not** a withholding MIT, then both:

- the trustee will be taxed in the place of the non-resident member on Australian sourced income and capital gains
- the member will generally be entitled to a credit against their tax liability for the tax paid by the trustee.

Dividend, interest and royalty withholding (DIR) may still apply, even if the MIT (or AMIT) is not a withholding MIT.

If a MIT is **not** a withholding MIT, it must include beneficiary and income details in the trust income tax return for any amounts to which a non-resident beneficiary is presently entitled.

An AMIT that is **not** a withholding MIT must include member and income details in the AMIT income tax return for any amounts attributed to non-residents.

NANE treatment

Any amount subject to withholding tax on fund payments or DIR is non-assessable non-exempt (NANE) income for the recipient. This ensures the withholding tax is a final tax for most foreign investors in MITs.

However, if you're an Australian resident and you receive an amount directly or indirectly which has been subject to MIT withholding, the amount will not be NANE, and the income will continue to be subject to tax at your marginal tax rate.

Notice requirements

If you are an Australian resident, any payments you receive from a MIT or AMIT are **not** subject to the MIT withholding rules. However, a MIT or AMIT must notify you if any such payment is a fund payment (from a withholding MIT) or DIR payment (from an AMIT) and state the amount that **would have been** subject to withholding if you were a non-resident. The MIT or AMIT can notify you directly or make the payment details available for at least five years on a website you can access.

The notice requirement applies for actual and deemed payments. The notice must identify the part of the actual and deemed payment from which withholding would have been required, and the income year it relates to.

If the payment is made to an Australian resident through a custodian, the custodian is also required to provide notice in the same way as the MIT or AMIT.

Payment summaries

If you have had tax withheld from the payments you receive from a MIT or an AMIT, the withholding MIT must provide you with a payment statement at the end of the income year that specifies:

- the name of the payer
- your name
- your tax file number (TFN) or Australian business number (ABN) (if provided)
- the total of the withholding payments it covers, and the total of the amounts withheld by the payer from those withholding payments
- the income year it relates to.

Reporting withholding to us

A withholding MIT must report to us the amounts withheld, by lodging an annual investment income report (AIIR).

See also:

AMIT reporting requirements

Penalty for failing to withhold

If the MIT (or AMIT) trustee fails to withhold from a payment to its non-resident members, the trustee will be liable for a penalty equal to the amount that was required to be withheld.

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Withholding for AMITs

How aspects of the attribution regime for MITs affect the withholding requirements for AMITs.

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Deemed payments

Under the attribution method for AMITs, the amount attributed to you may not be the same as the amount you receive in cash. An AMIT that is a withholding MIT will make a deemed payment of dividends, interest and royalties (DIR) payment or deemed AMIT fund payment to you when the AMIT issues you with an AMIT member annual statement (AMMA statement). The amount of the deemed payment may be zero.

The amounts attributed to you of a character relating to assessable income, as shown in the AMMA statement, are effectively your share of the AMIT's income and the total amount may be subject to withholding to the extent that those amounts have not already been distributed and subject to withholding before the issue of the AMMA statement. This may be a greater or lesser amount than you receive in actual cash payments.

The amount of the deemed payment is broadly the difference between the amounts attributed to you of a character relating to assessable income as shown in the AMMA statement and any actual payments (pre-AMMA actual payments) made to you as cash payments or present entitlements.

The trustee:

- first works out the total deemed payments at the fund level (that is, the total of all the amounts of a character relating to assessable income attributed to all the members, less the total of all pre-AMMA actual payments that are AMIT DIR payments and fund payments)

- determines the amount of the deemed payment referable to each member on a fair and reasonable basis.

Deemed payments are effectively subject to the same withholding requirements as actual payments. The trustee may need to pay an amount or amounts to us in respect of the deemed payment. Where an amount is payable, the amount is equal to what it would have been required to withhold from the deemed payment if it were an actual payment. For more information, see **AMIT reporting requirements**.

Pre-AMMA actual payments

A trustee is likely to make actual cash payments to you during the income year. Cash payments made to you during the income year, before you're provided with an AMMA statement are called 'pre-AMMA actual payments'.

If you're a foreign member, when a trustee makes an actual DIR or fund payment to you, the trustee must withhold from the payment and remit the amount withheld to the ATO.

If there are no actual payments before the AMMA statement is issued, the amount of the deemed DIR or fund payment is determined by reference to your 'determined member components' of the relevant characters, as disclosed in the AMMA statement.

Post-AMMA actual payments

Any payment attributed to you at the same time or after the AMMA statement is issued is not treated as an AMIT DIR or fund payment if it relates to a 'determined member component' already included in your AMMA statement (and therefore relates to a deemed payment).

There is no withholding obligation for a post-AMMA actual payment, as an amount will already have been paid to the ATO for the earlier 'deemed payment'.

Custodians

There are special modifications to the rules for custodians that have received payments from an AMIT.

You are a custodian if you are carrying on a business that consists predominantly of providing custodial or depository interests under an Australian financial services licence, or you are acting on behalf of an entity carrying on such a business. A foreign resident may invest in an AMIT through an intermediary such as a custodian.

If you are a custodian and you receive a deemed DIR payment or deemed fund payment from an AMIT, you must withhold an amount from any subsequent deemed payment you make to an entity whose address, or place for payment, is outside Australia. If you make a deemed DIR payment or deemed fund payment to an entity whose address, or place for payment, is outside Australia, you must pay the ATO an amount equal to what you would have had to withhold if the deemed payment was an actual payment.

If you make a subsequent deemed DIR payment or deemed fund payment to another entity that has a place of payment or address in Australia, you must notify or make information available to the recipient outlining certain details in relation to that payment.

If an AMIT makes a deemed payment to you that is not accompanied by a cash payment, or the cash payment is not sufficient to cover your obligation to pay an amount to the ATO for the deemed payment, you can recover the amount of any excess from the non-resident recipient against payments due to the recipient.

Other entities

'Other entity' refers to any entity – for example, a trust, partnership or individual that is not an AMIT or a custodian.

If an 'other entity' receives an amount of AMIT DIR payment of a fund payment that is not a deemed payment from an AMIT, they must withhold an amount from any related later payment to a recipient whose address, or place for payment, is outside Australia.

If an 'other entity' receives an AMIT DIR payment or a fund payment, and an Australian resident becomes entitled to the payment, the 'other entity' must meet notification requirements regarding the payment.

Foreign entities that are trustees

Under the 2016 changes to withholding rules for MITs, a fund payment made to a foreign resident by an AMIT, custodian or interposed trust is

subject to MIT withholding tax. This is regardless of whether the foreign entity is receiving the payment in the capacity of a trustee. This change removes the need for the AMIT to determine the residency status of the ultimate beneficiary.

Should the income then flow back onshore to an Australian resident, the Australian resident will be taxed on that payment at appropriate marginal rates, with a relevant credit for the withholding tax applied.

TFN withholding for AMITs

Payments to non-residents

If you are a non-resident and an AMIT is required to withhold an amount for a payment or deemed payment to you, you are taken to have quoted a TFN in relation to your investment.

Payments to residents who haven't quoted their TFN

If you are an Australian resident who hasn't quoted your TFN and an AMIT makes a payment to you, the AMIT is required to withhold an amount under the TFN withholding provisions. The TFN withholding provisions will continue to apply to the total amount of any actual payments (except for a return of capital) it makes to you.

TFN withholding also applies to the following payments an AMIT makes to you:

- pre-AMMA actual payments (except for returns of capital)
- deemed payments except to the extent that the payment relates to a pre-AMMA actual payment that was already subject to the TFN withholding.

Example: working out the TFN withholding amount that an AMIT makes to you

An AMIT makes a pre-AMMA actual payment of \$100 to its members and issues AMIT DIR payment notices indicating that the payment includes an AMIT interest payment of \$80 in total. The AMIT then issues AMMA statements attributing interest of \$80 and foreign source income of \$20. A \$20 deemed payment

arises, as only AMIT DIR payments and fund payments are excluded from the deemed payment calculation.

Don, a resident member, holds a 10% interest in the fund, and has received a pre-AMMA actual payment of \$10 and a deemed payment of \$2 is referable to the member.

As the AMIT withheld an amount from the \$10 pre-AMMA actual payment, the AMIT is not required to withhold an amount from the \$2 deemed payment as this amount has already been subject to TFN withholding.

If TFN withholding tax has already been deducted from a pre-AMMA actual payment or deemed payment, TFN withholding does not apply to a post-AMMA actual payment to the extent it relates to the earlier pre-AMMA actual payment or deemed payment.

For both actual and deemed payments, the amount to which TFN withholding applies for AMITs takes into account the amount of the AMIT DIR payments and fund payments worked out under the method statements in subsections 12A-30(4) and 12A-110(5) of the *Taxation Administration Act 1953*.

Example: working out the amount to which TFN withholding applies

For an income year, an AMIT has two members: Anne, who is a non-resident and Yasmin, who is a resident, who each have a 50% interest in the AMIT. For the income year, the AMIT expects to receive interest of \$200. At the end of each quarter of the income year, the AMIT makes a cash distribution of \$20 to Anne and \$20 to Yasmin.

For Anne, for each \$20 cash distribution, the AMIT works out the amount of the AMIT interest payment to be \$25 and the AMIT withholds an amount of interest withholding tax from \$25.

For the purposes of applying the TFN withholding provisions to Yasmin, the \$20 actual payment is also taken to be increased to \$25 and therefore the TFN withholding applies to \$25.

If the AMIT issues Yasmin an AMMA statement showing interest of \$100, no deemed payment arises. Where the AMIT makes a post-AMMA actual payment of \$20 (\$100 less the \$80 actual

quarterly amounts paid during the year), the AMIT is not required to apply the TFN withholding to the post-AMMA actual payment as the correct amount of withholding has already occurred from the pre-AMMA actual payments.

After working out the amount to which TFN withholding applies according to the method statement, to work the amount to be withheld, the amount is multiplied by the withholding rate applicable for the income year in which the amount is income of the recipient.

We may issue more comprehensive guidance on the application of the TFN withholding provisions to AMITs to reflect our approach to the interpretation and administration of these laws.

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Withholding on fund payments for MITs

Withholding MITs and custodians may be required to withhold an amount from a fund payment.

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Withholding MITs (whether a MIT or an AMIT) and custodians may be required to withhold an amount from a fund payment, or an amount reasonably attributable to such payment, where they make payment to a place outside Australia or the recipient has an address outside Australia.

Under the MIT withholding regime, fund payments to foreign members are subject to a final withholding tax of:

- 15% where the payment is made to a resident of a country that has an exchange of information agreement with Australia
- 30% where the payment is made to a resident of a country that does not have an exchange of information agreement with Australia.

The [Taxation Administration Regulations 2017](#)  has been amended and 54 countries have been added to the 'information exchange countries', with the date of effect 1 January 2019.

A fund payment made on or after 1 January 2019 to a recipient with an address or place of payment in one of these 54 countries will be subject to a withholding tax of 15% instead of 30%.

Definition of a fund payment

For MITs, a fund payment broadly consists of the net income of the MIT from Australian sources.

Fund payment excluded amounts are:

- dividends, interest and royalties on the basis that they are subject to withholding tax under separate provisions
- capital gains or capital losses from CGT events that happen in relation to CGT assets that are not taxable Australian property

In calculating a fund payment for a MIT, capital losses from CGT events that happen in relation to CGT assets that are not taxable Australian property are added back to the extent they are applied against capital gains from taxable Australian property.

For AMITs, fund payments are defined under section 12A-110 of the *Taxation Administration Act 1953* (TAA). The object of the definition is to ensure the total of fund payments made by the AMIT for an income year equals, as closely as possible, the total of both:

- its **determined member component** of an assessable income character, disregarding any excluded components
- each capital loss from a CGT asset that is not taxable Australian property to the extent that each capital loss has been applied against capital gains from taxable Australian property.

Excluded components include determined member components of the following characters:

- discount capital gains and non-discount capital gains from a CGT asset that is not taxable Australian property
- dividends, interest and royalties that are subject to, or exempted from, a requirement to withhold
- foreign source income.

A fund payment for an AMIT may be an actual payment or a deemed payment. The amount of the fund payment is worked out using the method statement in subsection 12A-110(5) of the TAA.

As part of the method statement, the trustee must work out the reasonable expectation of what the total determined member components will be for each assessable income character, based on the trustee's knowledge at the time the actual payment is made.

Withholding on fund payments for AMITs

The fund payment withholding requirements apply only to AMITs that are withholding MITs. Any withholding MITs that are not AMITs will continue to apply the withholding requirements under Subdivision 840-M of the *Income Tax Assessment Act 1997* (ITAA 1997) and Subdivision 12-H of the TAA.

The trustee of an AMIT that is not a withholding MIT will be taxed on attributed amounts on behalf of foreign residents, rather than coming under the MIT withholding regime. Dividend, interest and royalty withholding may still apply.

The withholding rules apply to both actual fund payments and deemed fund payments. The trustee must pay an amount to the ATO for deemed fund payments, equal to what it would be required to withhold from deemed fund payments if they were actual fund payments.

For more information, see:

- Law Companion Ruling LCR 2015/13 *Attribution Managed Investment Trusts: withholding in respect of 'fund payments'*
- Paying and reporting withheld amounts

Withholding on dividend, interest and royalty payments for MITs

A MIT or AMIT must withhold from unfranked dividends, interest and royalty payments to foreign resident members.

Last updated 24 July 2025

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[Withholding rates and rules](#)

[Definition of AMIT DIR payments](#)

Withholding rates and rules

Generally, the amounts withheld from a payment are:

- 10% for interest, regardless of whether a tax treaty is in place
- 15% for unfranked dividends and royalties where there is a tax treaty in place
- 30% for unfranked dividends and royalties where there is no tax treaty in place.

Fully franked dividends are not subject to withholding, as the underlying profits have already been taxed. Foreign residents are not entitled to claim any imputation credit attached to the dividend.

Partially franked dividends will require withholding to be applied to the unfranked portion.

The withholding requirements for dividends, interest and royalty (DIR) payments apply to all AMITs, not just those that are withholding MITs.

The withholding rules apply to:

- an AMIT dividend payment, defined in subsection 12A-30(4) of the *Tax Administration Act 1953* (TAA)
- an AMIT interest payment, defined in subsection 12A-35(4) of the TAA
- an AMIT royalty payment, defined in subsection 12A-40(4) of the TAA.

The amount of an AMIT dividend, interest or royalty payment is worked out according to the method statement in section 12A-30 of the TAA. The withholding rules apply to actual DIR payments and, for AMITs that are withholding MITs, the withholding rules will also apply to deemed DIR payments. For more information, see **Determined member component**

Definition of AMIT DIR payments

AMIT DIR method statement

AMIT DIR payment amounts need to be calculated according to the method statement in subsection 12A-30(4) of the TAA, with certain modifications required for determining interest and royalty payments.

The method statement is used to ensure the total of the AMIT DIR payments made by the trustee for the income year equals, as closely as possible, the total 'determined member components' of those characters for the income year.

The method statement is as follows:

1. Work out the amount reasonably expected to be the total of the 'determined member components' for the AMIT for the income year for dividends, interest or royalties that are generally subject to ordinary dividend, interest or royalty withholding.
2. The AMIT DIR amount for a particular payment is the amount from '1', as is reasonable having regard to the amounts of any earlier AMIT DIR payments made by the trustee for the income year, and the expected amounts of any later DIR payments the trustee expects to make for the income year.

AMIT dividend payment

The amount of an AMIT dividend payment is worked out by applying the method statement in subsection 12A-30(4) of the TAA. The amount of the AMIT dividend payment may be:

- the amount of the actual payment or deemed payment, or
- the amount of the actual payment or deemed payment, increased or reduced as a result of the method statement.

AMIT interest payment

An AMIT interest payment is an actual payment or a deemed payment the trustee makes in relation to an income year. The amount of the AMIT interest payment may be:

- the amount of the actual payment or deemed payment, or
- the amount of the actual payment or deemed payment, increased or reduced as a result of the method statement.

To work out the amount of an AMIT interest payment, an AMIT must apply the method statement in subsection 12A-30(4), as modified by subsection 12A-35(4).

AMIT royalty payment

An AMIT royalty payment is an actual payment or a deemed payment the trustee makes in relation to an income year. The amount of the AMIT royalty payment may be:

- the amount of the actual payment or deemed payment, or
- the amount of the actual payment or deemed payment, increased or reduced as a result of the method statement.

To work out the amount of an AMIT royalty payment, an AMIT must apply the method statement in subsection 12A-30(4), as modified by subsection 12A-40(4).

For more information, see:

- Law Companion Ruling LCR 2015/12 *Attribution Managed Investment Trusts: dividend, interest and royalty withholding*
- Withholding from interest paid to foreign residents
- Withholding from dividends paid to foreign residents
- Withholding from royalties paid to foreign residents

- Paying and reporting withheld amounts

QC 47436

Applying the new withholding rules from 1 July 2015

Information for to trustees of qualifying MITs that choose to apply the MIT rules that were enacted on 5 May 2016.

Last updated 24 July 2025

This information is relevant to trustees of qualifying MITs that choose to apply the new MIT rules (enacted on 5 May 2016) from 1 July 2015, where:

- the trustee is making interim payments (for example, quarterly or half yearly) to non-resident unit holders/members, or to custodians or other entities who may be making interim payments to non-residents
- at the time of making such interim payments the legislation had not been enacted
- the trustee relied on the latest publicly released exposure draft of the legislation or Bill to determine its withholding obligations at the time of those payments.

Any reference to a MIT trustee in the following guidance extends to a custodian or other entity that may be required to withhold amounts from fund payments or dividend, interest and royalty (DIR) payments to non-residents.

The withholding obligations determined at the time of payment may be different to your obligations under the enacted law.

Correcting in subsequent payments

Generally, a trustee of a MIT, when anticipating the proposed rules, must apply the proposed withholding provisions in a reasonable way and, over the course of the income year, withhold the correct amount of tax from fund payments and DIR payments.

If you discovered after the law was enacted that you over- or under-withheld from an earlier payment in 2015–16, you should adjust the amount you withhold from subsequent payments in 2015–16 to account for the discrepancy.

Where no further payments are made in the income year, foreign resident members will need to either:

- apply for a refund if the amount of withholding tax paid to us is greater than their liability
- make a top-up payment of withholding tax if the amount paid to us is less than their liability.

Over-withholding

If you discover, **prior to 1 July 2016**, that you withheld more tax during 2015–16 than you should have, you must refund the extra amount you withheld to the member, even if you have already paid the amount to us.

If you have already paid the amount to us and you will not be liable to pay us any further withholding amounts for 2015–16, you will need to lodge a revised activity statement to recover the amount over-withheld. Revised activity statements are available in Online services for business if you are a registered user, or by phoning us on **13 28 66**.

If you discover, **after 30 June 2016**, that you withheld more tax than you should have done, **do not** refund the amount to the member – if you do, we cannot refund the amount to you. Your member needs to make a refund application in writing to us.

Under-withholding

A payer who fails to withhold an amount, or under-withholds, will be subject to an administrative penalty equal to the amount that they did not withhold. We also impose a general interest charge (GIC) on payments made to us after the due date, even if the amount was reported to us on time.

If you applied the law in a reasonable way and after 30 June 2016 you discover you have withheld less tax during the 2015–16 than you should have done, you are liable to pay a penalty equal to the amount that you did not withhold. However, if you pay the penalty by 30 September 2016, we will remit any GIC that would ordinarily be imposed.

If you do not pay the penalty by 30 September 2016, you remain liable to pay the GIC.

We will not automatically remit the GIC. You can apply for the GIC to be remitted if you can show the remission is warranted.

When you pay the penalty, you are entitled to recover an amount equal to the penalty from your members. Your members are entitled to a credit equal to the penalty or GIC you have paid, as appropriate.

Penalties may apply where you have made a false or misleading statement, or have been reckless, or intentionally disregarded the law.

QC 47436

Implications of MIT withholding for foreign residents

Withholding tax on selected payments from Australian MITs and AMITs is a final tax imposed on foreign residents.

Last updated 24 July 2025

Withholding tax on MIT fund payments and dividend, interest or royalty (DIR) payments (including deemed payments) received from Australian MITs (and AMITs) is a final tax imposed on foreign residents. Payments (including deemed payments) received by a foreign resident that are subject to withholding tax are non-assessable non-exempt income for income tax purposes.

If you are a foreign resident, your liability for withholding tax will generally be met by the amount being withheld by the trustee of an Australian MIT, custodian or other entity. If your only Australian income

is a fund payment or DIR payment from a MIT, you are not required to lodge an Australian tax return, as long as tax has been correctly withheld from your payment.

However, mismatches in withholding amounts can occur in certain situations, such as where the address of the recipient of the payment (such as a global custodian) is different from the address of the ultimate foreign investor. As a result, the withholding tax paid to us could be greater (or less) than the foreign investor's actual withholding tax liability.

If the amount of withholding tax paid to us by the MIT is greater than your liability, you can apply for a refund of the overpaid amount. You will need to make a top-up payment of withholding tax if the amount paid to us is less than your liability.

For more information, see:

- [Withholding on fund payments for MITs](#)
- [Withholding on dividend, interest and royalty payments for MITs](#)
- [MIT withholding tax refund or top-up payment](#)

QC 47436

Repeal of Division 6B

Following a Board of Taxation recommendation, Division 6B of the ITAA 1936 was repealed.

Last updated 24 July 2025

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Purpose of Division 6B

Division 6B was introduced in 1981, prior to the company imputation system and capital gains tax systems and applied to tax certain public unit trusts at the corporate tax rate. It was introduced to discourage the reorganisation of companies involving the transfer of assets or businesses into a resident public unit trust in which shareholders would take equity to access more beneficial trust tax treatment.

Generally, trusts (including MITs) can have tax advantages over companies. As examples, they may be able to distribute non-assessable tax-free and tax-deferred amounts, and the CGT discount is available to trusts but not companies. There is also opportunity to access tax rates lower than the 30% company tax rate, such as the 15% final MIT withholding tax rate for non-resident beneficiaries.

What is new

The repeal of Division 6B coincides with the introduction of a new arm's length income rule.

There have also been changes that affect the 20% tracing rule in Division 6C.

Consequences for some unit trusts

Before 1 July 2016, if Division 6B applied to a trust (an affected trust), the trust was taxed as a corporate tax entity. Generally, these trusts are described as a corporate unit trust.

As a result of the 2016 amendments to repeal Division 6B, affected trusts cease to be a corporate unit trust for income years starting on or after 1 July 2016.

Trustees of affected trusts need to consider how the trust is affected by the repeal and determine the impact on their registration requirements and tax obligations.

Some affected trusts will continue to be treated as a corporate tax entity. For example, if the trust is the head company of a consolidated group because it has made a choice under Subdivision 713-C of the ITAA 1997, the trust will continue to be treated as a company for income years commencing on or after 1 July 2016 despite the repeal of Division 6B. Similarly, some trusts that were corporate unit trusts under

Division 6B may satisfy the requirements of a public trading trust and be taxed as a corporate tax entity under Division 6C.

For more information, see:

- [Arm's length income rule for MITs](#)
- [20% tracing rule in Division 6C](#)
- [Transitional rules for trusts that cease to be corporate unit trusts or public trading trusts](#)

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Arm's length income rule for MITs

The arm's length income rule removes the incentive to shift profits by engaging in non-arm's length activity.

Last updated 24 July 2025

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The arm's length income rule was introduced in the context of the repeal of Division 6B of the *Income Tax Assessment Act 1936* (ITAA 1936: which taxed certain public unit trusts as corporate entities). This new rule removes the incentive to shift profits from an active business of a related party to a MIT by engaging in non-arm's length activity.

If we determine that a MIT has derived non-arm's length income, the trustee may be liable to pay income tax on that income at the standard

corporate tax rate of 30%.

Non-arm's length income

Ordinary or statutory income is non-arm's length income of a MIT if:

- it is derived from a non-arm's length scheme
- the amount is more than the MIT might have been expected to receive if the parties had dealt with each other at arm's length.

An amount of non-arm's length income is the whole amount, not just the component in excess of the amount that would have been derived if the parties were dealing at arm's length. However, the trustee will only be liable to tax on the amount by which the non-arm's length income exceeds the amount that would have been expected if the parties had dealt with each other at arm's length.

Certain amounts are specifically excluded from being non-arm's length income:

- a distribution to a MIT from a corporate tax entity
- a distribution to a MIT from a trust that is not a party to the non-arm's length scheme
- a return to a MIT an entity pays or provides on a debt interest if the rate of the return does not exceed the **benchmark rate of return** or a rate of return equal to the **shortfall interest charge**
- some distributions from another trust that is a party to a non-arm's length scheme, where the income distributed is **not** non-arm's length income.

Non-arm's length scheme

A non-arm's length scheme is where parties are not dealing with each other at arm's length and at least one of the parties to the non-arm's length scheme is not a MIT for the income year.

This includes arrangements lacking the normal commercial distance between unrelated parties, where the financial outcomes of the arrangement are different to what they would be if the parties were not related or connected in some way.

Commissioner's determination

The arm's length income rule is an integrity rule that only applies if the Commissioner makes a determination:

- specifying an amount of non-arm's length income, for a MIT for a specified income year
- where the amount of non-arm's length income is reflected in either the trust components of an AMIT or the net income of a MIT.

The determination does not form part of an assessment but may be included with a notice of assessment. If you receive a determination you disagree with, you may lodge an objection.

Consequences of a determination

Once the determination is made, the amount of income exceeding an arm's length amount (less any deductions relating only to that excess amount) will be taxed at the standard corporate tax rate of 30%.

To prevent double taxation for an AMIT the amount of non-arm's length income is taxed at the corporate rate and taken to be an 'over' in the year of the determination.

For a MIT that is not an AMIT (Non-AMIT) the net income is reduced by the amount subject to trustee taxation at the corporate rate – for the income year to which the determination relates.

For example, the Commissioner of Taxation makes a determination on 31 August 2021 about a Non-AMIT's 2019 income year. The Non-AMIT is required to reduce its net income for the 2019 year by the amount of non-arm's length income the trustee was taxed on at the corporate rate.

Note: The determination does not necessarily mean the trust is a trading trust within the meaning of Division 6C.

Trustee can be subject to an administrative penalty

An administrative penalty is imposed on taxpayers entering into schemes to reduce their tax liabilities, including schemes to derive non-arm's length income.

The trustee of a MIT or AMIT is liable to an **administrative penalty** if we amend an assessment issued to the trustee for the income year and, as a result, the trustee is liable to pay an additional amount of income tax.

QC 47436

20% tracing rule in Division 6C

Under the new system for MITs, modifications were been made to the '20% tracing rule' in Division 6C of the ITAA 1936.

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Under the new system for managed investment trusts (MITs), modifications have also been made to the '20% tracing rule' contained in Division 6C of the *Income Tax Assessment Act 1936*. Division 6C applies to a trust if it is both:

- a trading trust (broadly, a trust that carries on activities other than holding solely passive investments such as shares, property and fixed interest assets)
- a public unit trust.

If Division 6C applies to a trust, the trust will effectively be taxed as a company.

Previously, a trust could be treated as a public unit trust when one or more tax exempt entities or complying superannuation entities owned 20% or more of the beneficial interests in the trust (the 20% tracing rule).

Under the modifications to Division 6C, super funds and exempt entities – that are entitled to a refund of excess imputation credits – will now be exempt from the 20% tracing rule for public trading trusts.

As such, a trust will not be a public trading trust just because certain tax-exempt entities and complying superannuation entities hold more than 20% of interests in the trust.

Consequences for public trading trusts

As a result of the 2016 amendments to Division 6C, some trusts cease to be taxed as corporate tax entities.

Last updated 24 July 2025

Some trusts cease to be taxed as corporate tax entities for income years starting on or after 1 July 2016.

Trustees of affected trusts will need to consider the impact of these changes on their registration requirements and tax obligations.

If a trust has carried forward tax losses – incurred when it was a public trading trust – then these losses are still deductible by the trust after it ceases to be a public trading trust – provided it satisfies trust loss testing rules in Schedule 2F of the *Income Tax Assessment Act 1936*.

Some affected trusts will continue to be treated as a corporate tax entity. For example, if the trust is the head company of a consolidated group because it has made a choice under Subdivision 713-C of the *Income Tax Assessment Act 1997*, the trust will continue to be treated as a company for income years starting on or after 1 July 2016 – despite amendments to Division 6C.

For more information, see:

- **Repeal of Division 6B**
- **Arm's length income rule for MITs**
- **Transitional rules for trusts that cease to be corporate unit trusts or public trading trusts**

QC 47436

CGT event E4

When a CGT Event E4 occurs and how it affects a unit holders' cost base and potential capital gains.

Last updated 24 July 2025

If you receive a non-assessable payment from a trust, CGT event E4 may occur and you may need to make cost base adjustments to your units or trust interest.

If the sum of the amounts of the non-assessable payments received in the income year in respect of the unit or interest is more than its cost base, you will make a capital gain equal to the excess amount and the cost base of the unit or interest are reduced to nil.

Where you receive a payment from a MIT, special rules modify the calculation of the non-assessable part. As a result, any capital loss reflected in the payment is not excluded from the non-assessable part of the payment.

CGT event E4 does not apply to an interest in an AMIT. However, CGT event E10 may apply.

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Application and transitional provisions for the new tax system for MITs

Application and transitional provisions that were put in place to allow for the changes not made at the commencement.

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With the introduction of the new tax system for managed investment trusts (MITs), there are a number of changes to the rules for MITs that will require time to implement. These do not necessarily take effect at the same time the MIT elects into the new AMIT regime. Application and transitional provisions have been put in place to allow for the changes not made at commencement.

Application provisions

The amendments to introduce a new tax system for MITs apply to income years starting on or after 1 July 2016. MITs will be able to make a choice to apply the new tax system for an income year that starts on or after 1 July 2015.

Extension of widely held requirements

The amendments, which extend the list of entities qualifying as specified widely held entities (for the purpose of the **widely held requirements** that must be satisfied for a trust to qualify as a MIT), apply from income years starting on or after 1 July 2014.

Division 6B and 6C

The amendments that **repeal the corporate unit trust rules in Division 6B** and modify the operation of the **20% tracing rule for public trading trusts in Division 6C** apply to income years starting on or after 1 July 2016.

Transitional provisions

Application of the arm's length income rule to existing arrangements

A transitional rule will apply if a MIT became a party to a non-arm's length scheme before the date that the Bill was introduced into the House of Representatives on 3 December 2015.

In these circumstances, any income derived by the MIT before the start of the 2018–19 income year, will not be taxed as non-arm's length income.

Transitional rules for unders and overs

Transitional rules will apply to existing MITs that enter into the new tax system with unders and overs relating to an earlier income year. The transitional rules apply when:

- a trust becomes an AMIT for the starting income year
- the trust existed in an earlier income year (the base year)
- the trust is an AMIT for the discovery year that is the starting income year (the first year the trust elects to become an AMIT) or a later income year.

The transitional rule applies if the AMIT has an under or over of a particular character in the discovery year in relation to a base year. For these purposes:

- the trust is taken to be an AMIT for the base year and for every income year between the base year and the starting income year
- if the trust sent distribution statements to members for an income year prior to the starting income year, the trust is taken to have sent AMMA statements to those members.

If the transitional rule applies, the under or over in relation to a base year is taken to be an under or over of the same character in the discovery year. In addition, where the under or over would have produced a particular effect under existing income tax law had it been discovered before the starting income year, then that other (pre-AMIT) particular effect is taken not to arise. That is, the discrepancy is dealt with solely by the unders and overs system.

Transitional rules for tax deferred and tax-free distributions

The transitional rules in relation to **tax deferred and tax-free distributions** will apply if the trustee of a trust made a payment to an entity on or after 1 July 2011 and before the income year in which the trust became an AMIT. The new cost-base adjustment rules will be used to work out the non-assessable part of the payment for CGT event E4 purposes. These sections do not, however, apply to

payments already included as assessable income in the income tax return lodged for the income year the payment was made.

These transitional rules ensure that tax-deferred and tax-free distributions made by a MIT prior to the commencement of the new tax system will be taken into account under the capital gains tax regime, rather than being taxed as ordinary income. This does not apply where an entity has already included the distributions as assessable income in the income tax return lodged for the income year the payment was made.

Where the member holds their interests in the AMIT as a revenue asset, we will similarly treat tax-free and tax-deferred distributions as giving rise to an adjustment to the cost of the interests for the purpose of calculating the revenue gain or loss on disposal of the interests, rather than being assessable up front (where the distributions have not already been included in assessable income).

These transitional rules will benefit taxpayers and ensure that industry practice relating to the taxation treatment of tax-deferred and tax-free distributions is not disturbed.

For more information, see *LCR 2015/11 Attribution Managed Investment Trusts: annual cost base adjustments for units in an AMIT and associated transitional rules*

Transitional rules for trusts that cease to be corporate unit trusts or public trading trusts

If Division 6B or Division 6C applies to a trust, the trust is effectively taxed as a corporate tax entity. As a result, the trust is required to keep a franking account and can distribute franking credits to its members.

As a result of the 2016 amendments to repeal Division 6B and modify Division 6C, some trusts will cease to be taxed as corporate tax entities. If a trust that ceases to be taxed as a corporate tax entity has a surplus in its franking account, a significant disadvantage may arise as the trust will no longer be able to pass franking credits on to its members.

To overcome this problem, transitional rules will apply if, as a result of these amendments, a trust ceases to be taxed as a corporate unit trust or a public trading trust.

There are two transitional rules:

1. Where an event that causes a franking credit or franking debit to arise happens between the trust ceasing to be a corporate unit trust or a public trading trust and 1 July 2019, and that event is, broadly, either the payment or refund of income tax for an income year starting before 1 July 2016, or the franking of a distribution, then the trust is taken to be a resident corporate tax entity at the time of the event for the purposes of determining franking credits or debits.
2. If the trust makes a distribution after it ceases to be a corporate unit trust or public trading trust and before 1 July 2019, and the trust's franking account is in surplus just before it makes the distribution, the trust will be taken to be a resident corporate tax entity at the time it makes the distribution.

Under these transitional rules, a trust that ceases to be taxed as a corporate tax entity as a result of these amendments will have until 30 June 2019 to use any surplus in its franking account, provided that the trust meets any imputation system integrity rules.

Other consequences for unit trusts

Trustees of trusts affected by the repeal of Division 6B and changes to Division 6C of the ITAA 1936 need to consider the impact of these changes on their registration requirements and tax obligations.

Some affected trusts continue to be treated as a corporate tax entity. For example, if the trust is the head company of a consolidated group because it has made a choice under Subdivision 713-C of the ITAA 1997, the trust will continue to be treated as a company for income years commencing after 1 July 2016, despite the amendments. Similarly, some trusts that were corporate unit trusts under Division 6B may satisfy the requirements of a public trading trust and be taxed as a corporate tax entity under Division 6C.

For trusts that continue being treated as a corporate tax entity, the trustee should update the entity type and description on any forms lodged with us to reflect any change.

Transitioning affected trusts

For the 2015–16 income year, an affected trust (a trust that ceases to be treated as a corporate tax entity for the income year starting on or after 1 July 2016) should lodge its company income tax return using its current company TFN and indicate that the return is its final return.

For the 2016–17 income year, the trust should apply for a new trust TFN and ABN.

For any income years commencing on or after 1 July 2016, if the trust already has an appropriate trust TFN and ABN, and it:

- is not taxed as a company, it can continue to use the trust TFN and ABN for that year
- becomes eligible to be taxed like company for a later income year, use the company TFN to lodge a company tax return for that year.

The trust can apply for a new TFN and ABN at any time at abr.gov.au including before the 2015–16 year company tax return is lodged. Make this application as soon as possible to allow the trust to meet its obligations from the start of the 2016–17 income year.

For more information, see:

- Repeal of Division 6B
- Arm's length income rule for MITs
- 20% tracing rule in Division 6C
- Work out which registrations you need

Extension of interim trust streaming provisions for MITs

The trust streaming rules allow MITs to choose whether to apply the rules to stream capital gains and franked dividends to beneficiaries, for the 2010–11 to 2013–14 income years.

The option to make a choice was intended to operate until the new tax system for MITs commenced.

However, as a result of the need to change business systems, some AMITs may not be immediately ready to make a choice to apply the new tax system.

As a result, the transitional rules will allow the trustee of a MIT to continue to be able to make a choice as to whether to apply the trust streaming provisions up to and including the 2016–17 income year. MITs that have previously made the election to apply the interim trust streaming provisions can continue to apply those provisions for 2014–15 to 2016–17. After the 2016–17 income year, the choice to apply the trust streaming provisions will no longer be available to MITs.

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How we apply the law

Our Law Companion Rulings describe how we will apply new laws once they are enacted

Last updated 24 July 2025

If you rely on any of these guidelines in good faith, you will generally not be subject to underpaid tax, penalties or interest if the guideline does not correctly state how a relevant provision applies to you.





Once draft guidelines are finalised, they are binding advice. They express our interpretation of the laws we administer and our opinion of how a provision of tax law applies to taxpayers generally, rather than to specific circumstances of a particular taxpayer.

The rulings that relate to AMITs are:

- Law Companion Ruling LCR 2015/4 *Attribution Managed Investment Trusts: 'clearly defined rights'*
- Law Companion Ruling LCR 2015/5 *Attribution Managed Investment Trusts: choice to treat separate classes as separate AMITs*
- Law Companion Ruling LCR 2015/6 *Attribution Managed Investment Trusts: character flow through for AMITs*
- Law Companion Ruling LCR 2015/7 *Attribution Managed Investment Trusts: attribution on a 'fair and reasonable' basis*
- Law Companion Ruling LCR 2015/8 *Attribution Managed Investment Trusts: the rules for working out trust components – allocation of deductions*
- Law Companion Ruling LCR 2015/9 *Attribution Managed Investment Trusts: trustee shortfall taxation – section 276-420*
- Law Companion Ruling LCR 2015/10 *Attribution Managed Investment Trusts: administrative penalties for recklessness or intentional disregard of the tax law – section 288-115*

- Law Companion Ruling LCR 2015/11 *Attribution Managed Investment Trusts: annual cost base adjustments for units in an AMIT and associated transitional rules*
- Law Companion Ruling LCR 2015/12 *Attribution Managed Investment Trusts: dividend, interest and royalty withholding*
- Law Companion Ruling LCR 2015/13 *Attribution Managed Investment Trusts: withholding in respect of 'fund payments'*
- Law Companion Ruling LCR 2015/14 *Managed Investment Trusts: widely-held tests – wholly-owned entity of an Australian government agency*
- Law Companion Ruling LCR 2015/15 *Managed Investment Trusts: the non-arm's length income rule in sections 275-605, 275-610 and 275-615 of the Income Tax Assessment Act 1997*
- Law Companion Ruling LCR 2016/4 *Attribution Managed Investment Trusts: 'carry-forward trust component deficit'*

For more information, see:

- Law Companion Ruling LCR 2015/1 *Law Companion Guidelines: purpose, nature and role in ATO's public advice and guidance*
- [Tax Laws Amendment \(New Tax System for Managed Investment Trusts\) Act 2016](#) 
- [Income Tax Rates Amendment \(Managed Investment Trusts\) Act 2016](#) 
- [Medicare Levy Amendment \(Attribution Managed Investment Trusts\) Act 2016](#) 
- [Income Tax \(Attribution Managed Investment Trusts – Offsets\) Act 2016](#) 

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Our compliance approach

A summary of our compliance approach in 3 key areas affected by the new rules for MITs.

Last updated 24 July 2025

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Our priority is to provide support and assistance to taxpayers wanting to comply with the law. We welcome engagement with taxpayers, advisers and industry associations who wish to evaluate tax risk in relation to particular circumstances.

Post-balance date variances in member entitlements

'Unders' and 'overs' arise where net income and tax offset entitlement amounts reported to unit holders understate or overstate the amounts correctly determined under the law.

The existing trust income rules in Division 6 of the *Income Tax Assessment Act 1936* make no provision for unders and overs adjustments. That is, Division 6 does not provide for amounts of over- or under-reported net income for an earlier year to be taken into account in a later year.

The new MIT rules have specific provisions for dealing with unders and overs of amounts attributed to members, allowing AMITs (and their members) to bring those under and over amounts to account in a later income year.

For MITs that choose to apply the new AMIT rules from 1 July 2015 or 1 July 2016, we will not generally apply compliance resources to specifically review prior-year under and over amounts.

For MITs that do not elect into the new rules from these dates, we expect trustees to advise unit holders of their net income entitlements based on the trust taxation rules set out in Division 6. However, while

we reserve the right to focus on this issue in specific cases, it will not be a focus area in allocating compliance resources for income years ending before 1 July 2017.

From 1 July 2017, we will be monitoring the treatment of unders and overs by trusts not electing into the new rules and allocating compliance resources based on overall risk management principles.

Distributions in excess of beneficiaries' shares of net income

Trust distributions in excess of the amounts assessed to beneficiaries are known as tax deferred distributions (TDDs).

Generally, we will not seek to assess TDDs as ordinary income where taxpayers hold interests in trusts as:

- investments, either on capital account, or subject to the CGT primary code rules applying to superannuation entities, MITs and the superannuation business of life insurance companies, and have consistently treated the TDDs as non-assessable amounts under the CGT cost base and reduced cost base rules
- revenue assets (not subject to CGT primary code rules), and have taken TDDs, including CGT concessional amounts, fully into account in working out revenue gains and losses on those interests.

Situations where the assessing of TDDs as ordinary income will be considered include (but are not necessarily limited to):

- the type referred to in Taxation Ruling IT 2512, which deals with 'Financing unit trusts', and similar arrangements involving the use of a trust structure to raise finance where TDDs are received in lieu of interest or similar amounts that would normally form part of assessable income
- the type referred to in Taxation Ruling TR 2014/D1, which involves the use of trusts to make distributions to persons as a reward for the performance of services, whether as an employee or otherwise
- arrangements where there may have been tax planning to maximise the extent to which trust distributions are characterised as TDDs.

The assessability of TDDs will also be considered where they relate to trust interests that are:

- subject to the taxation of financial arrangements (TOFA) regime and treated as assessable income under TOFA rules
- held as trading stock – in these situations a corresponding closing stock adjustment may also be appropriate in some situations when a cost basis is being used.

AllR requirements for AMITs

Based on industry feedback, we recognise there may be difficulties in implementing the Annual investment income report changes for AMITs that choose to apply the new rules from 1 July 2015, including flow-on affects for other MITs and custodians.

In response to this feedback, we are postponing the finalisation of the new reporting requirements for AMITs until the 2016–17 reporting period.

Entities that are reporting trust distributions in 2015–16, including MITs who choose to apply the new MIT regime from 1 July 2015, will report using existing [investment bodies specifications](#) [↗](#) (V10.0 and v4.0 (PC spreadsheet format)).

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Managed investment trust – flagged tax risks

Learn about the tax risks we have identified for managed investment trusts (MITs).

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Restructures to access the MIT withholding regime

We have issued Taxpayer Alert TA 2025/1 *Managed investment trusts: restructures to access the managed investment trust withholding regime*. This alert identifies our concerns with certain restructures undertaken to access the concessional withholding tax rates. Consider TA 2025/1 for what could attract the application of the general anti-avoidance rules.

Announced but unenacted measure

The Australian Government announced on 13 March 2025 that there will be amendments to the income tax laws to ensure certain investors can continue to access concessional withholding tax rates in Australia. The announcement indicates that those amendments are intended to apply to fund payments made from the date of the announcement. For more information, see The Hon Stephen Jones MP media release: [Clarifying tax arrangements for managed investment trusts](#) .

Announced measures that are not yet law will be subject to consideration by government. We can't provide advice on unenacted measures.

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Some of the information on this website applies to a specific financial year. This is clearly marked. Make sure you have the information for the right year before making decisions based on that information.

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