

EXPOSURE DRAFT

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Inserts for
**Treasury Laws Amendment (2018
Measures No. 5) Bill 2018: AMIT
technical amendments**

Commencement information

Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details

1. Schedule #	The first 1 January, 1 April, 1 July or 1 October to occur after the day this Act receives the Royal Assent.	
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Schedule #—AMIT technical amendments

Income Tax Assessment Act 1936

1 At the end of subsection 128B(1A)

Add:

Note: References in this section to amounts paid to a person may include amounts from an AMIT that, under section 12A-205 in Schedule 1 to the *Taxation Administration Act 1953*, are treated as payments to the person (from the trustee of the AMIT or a custodian).

Income Tax Assessment Act 1997

2 At the end of section 104-71

Add:

(6) Item 7 of the table in subsection (4) does not apply if the entity making the payment is a *managed investment trust.

3 Paragraphs 104-107A(1)(b) and (c)

Repeal the paragraphs, substitute:

(b) either:

- (i) the *cost base of that asset is reduced under subsection 104-107B(2) during the income year; or
- (ii) the cost base of that asset is nil at the start of the income year; and

(c) the asset's *AMIT cost base net amount for the income year:

- (i) is the excess mentioned in paragraph 104-107C(a); and
- (ii) exceeds the cost base of the asset.

4 Subsection 104-107A(2)

Repeal the subsection, substitute:

(2) The time of the event is:

- (a) if subparagraph (1)(b)(i) applies—the time at which the reduction occurs under section 104-107B; or
- (b) if subparagraph (1)(b)(ii) applies—the time at which the *cost base would have been reduced under subsection 104-107B(2)

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1 during the income year if the cost base had been greater than
2 nil at the start of the income year.

3 **5 Subsection 104-107A(3)**

4 Omit “paragraph (1)(c)”, substitute “subparagraph (1)(c)(ii)”.

5 **6 Paragraph 104-107F(1)(f)**

6 Omit “section 104-107E”, substitute “section 104-107D”.

7 **7 Paragraph 276-10(1)(c)**

8 Repeal the paragraph.

9 **8 Subsections 276-315(4) and (5)**

10 Repeal the subsections.

11 **9 Subsection 276-415(4)**

12 Repeal the subsection, substitute:

- 13 (4) For the purposes of subsection (2), treat the amount of the shortfall
14 under subsection (1) relating to the component as being double
15 what it would be apart from this subsection.

16 **10 Paragraph 840-805(2)(b)**

17 Omit “a payment that is”.

18 **11 At the end of subsection 840-805(2)**

19 Add:

20 Note: If the withholding MIT is an AMIT, under subsection 12A-205(2) in
21 Schedule 1 to the *Taxation Administration Act 1953* amounts may be
22 treated, for the purposes of this Subdivision, as having been paid to
23 you from the trustee of the AMIT.

24 **12 Paragraph 840-805(3)(b)**

25 Omit “a payment that is”.

26 **13 At the end of subsection 840-805(3)**

27 Add:

28 Note: If the withholding MIT is an AMIT, under subsection 12A-205(5) in
29 Schedule 1 to the *Taxation Administration Act 1953* amounts may be
30 treated, for the purposes of this Subdivision, as having been paid to
31 you from the custodian.

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Income Tax (Transitional Provisions) Act 1997

14 Section 276-25 (definition of *starting income year*)

Repeal the definition, substitute:

starting income year means:

- (a) unless paragraph (b) or (c) applies—the 2017-18 income year; or
- (b) if the trustee of the trust has made a choice for the purposes of paragraph 1(1)(b) of Schedule 8 to the *Tax Laws Amendment (New Tax System for Managed Investment Trusts) Act 2016*—the first income year starting on or after 1 July 2015; or
- (c) if the trustee of the trust has made a choice for the purposes of subparagraph 276-10(1)(e)(i) of the *Income Tax Assessment Act 1997* in respect of the 2016-17 income year—that income year.

Taxation Administration Act 1953

15 At the end of subsection 12-140(1) in Schedule 1

Add:

Note: If the investment body is an AMIT, under subsection 12A-205(2) amounts may be treated, for the purposes of this Part, as having been paid to the other entity by the investment body.

16 At the end of subsection 12-145(1) in Schedule 1

Add:

Note: If the unit trust is an AMIT, under subsection 12A-205(2) amounts may be treated, for the purposes of this Part, as having been paid to the investor by the entity that would have to pay that share.

17 After section 12-150 in Schedule 1

Insert:

12-152 Limited application of section 12-140 to payment covered by section 12A-205

- (1) If a payment is treated under section 12A-205 as having been made, section 12-140 does not apply to the payment to the extent

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1 that it covers a *pre-AMMA actual payment from which
2 section 12-140 has required an amount to be withheld.

3 (2) If a payment is a *post-AMMA actual payment, section 12-140
4 does not apply to the payment to the extent that it covers either or
5 both of the following:

6 (a) a *pre-AMMA actual payment from which section 12-140
7 has required an amount to be withheld;

8 (b) a payment that is treated under section 12A-205 as having
9 been made from which section 12-140 has required an
10 amount to be withheld.

11 **18 Section 12-383 in Schedule 1**

12 Before “A trust”, insert “(1)”.

13 **19 At the end of section 12-383 in Schedule 1**

14 Add:

15 (2) For the purposes of ascertaining whether a trust is a *managed
16 investment trust in relation to that income year for the purposes of
17 paragraph (1)(a), treat as a *fund payment by the trustee of the trust
18 any amount that, under subsection 12A-205(2), would be treated as
19 a payment by the trustee if the trust were an *AMIT.

20 Note: The making of a fund payment is a requirement for the trust to be a
21 managed investment trust under paragraph 275-10(1)(a) and
22 subsection 275-10(3) of the *Income Tax Assessment Act 1997*.

23 **20 Subsection 12-405(2) in Schedule 1 (at the end of step 1 of** 24 **the method statement)**

25 Add “, and increase it by any amounts to which subsection (2A) applies
26 for the income year”.

27 **21 After paragraph (a) of step 2 of the method statement in** 28 **subsection 12-405(2) in Schedule 1**

29 Insert:

30 (aa) including any amounts to which subsection (2A)
31 applies for the income year; and

32 **22 After subsection 12-405(2) in Schedule 1**

33 Insert:

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1 (2A) If:

- 2 (a) a *capital loss from a *CGT event happens in relation to a
3 *CGT asset that is not *taxable Australian property; and
4 (b) in relation to an income year, some or all of the capital loss is
5 applied against a *capital gain that happens to a CGT asset
6 that is taxable Australian property;

7 the amount that is so applied is an amount to which this subsection
8 applies for the income year, except to the extent that the capital
9 gain is included in the actual payment made in relation to the
10 income year.

11 **23 Paragraph 12A-110(3)(b) in Schedule 1**

12 Repeal the paragraph, substitute:

- 13 (b) the total of each *capital loss of the AMIT from a *CGT
14 event that:
15 (i) happened to a CGT asset that is not taxable Australian
16 property; and
17 (ii) has been applied against a capital gain that happened to
18 a CGT asset that is taxable Australian property;
19 but only to the extent that each such capital loss has been so
20 applied in the income year.

21 *Tax Laws Amendment (New Tax System for Managed* 22 *Investment Trusts) Act 2016*

23 **24 Subitem 75(2) of Schedule 5**

24 Omit “Subitem (3) applies”, substitute “Subitems (3) and (3A) apply”.

25 **25 After subitem 75(3) of Schedule 5**

26 Insert:

- 27 (3A) If the event is an event described in item 4 of the table in
28 subsection 205-30(1) of the *Income Tax Assessment Act 1997*, treat the
29 event as happening on 1 July 2018.

30 **26 Subitem 75(4) of Schedule 5**

31 Omit “Subitem (5) applies”, substitute “Subitems (5) and (6) apply”.

32 **27 At the end of subitem 75(4) of Schedule 5**

33 Add:

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1 ; and (c) the distribution is not made out of income derived on or after
2 1 July 2016.

3 **28 After subitem 75(5) of Schedule 5 (before the note)**

4 Insert:

5 (6) Treat a beneficiary of the trust who receives the distribution as
6 receiving, for the purposes of the income tax law, a dividend from a
7 corporate tax entity.

8 **29 Subitem 1(1) of Schedule 8**

9 Omit “income years starting on or after”.

10 **30 Paragraph 1(1)(a) of Schedule 8**

11 Omit “1 July 2016”, substitute “the 2016-17 income year and later
12 income years”.

13 **31 Paragraph 1(1)(b) of Schedule 8**

14 Before “1 July 2015”, insert “income years starting on or after”.

15 **32 Application of amendments**

16 The amendments made by items 1 to 13 and 15 to 23 of this Schedule
17 apply in relation to the 2017-18 income year and later income years.