



27 September 2017

Manager
Financial Services Taxation Unit
Corporate and International Tax Division
The Treasury
Langton Crescent
PARKES ACT 2600

Email: affordablehousingtax@treasury.gov.au

Dear Sir / Madam

Tax incentives to increase private and institutional investment in affordable housing

The Financial Planning Association of Australia welcomes the opportunity to provide feedback on the following draft legislation to enact the Government's measure to increase the supply of affordable housing:

- Exposure Draft Explanatory Material
- Treasury Laws Amendment (Reducing Pressure on Housing Affordability Measures No. 2) Bill 2017: additional CGT discount and providing affordable housing through MITs, and
- Income Tax (Managed Investment Trust Withholding Tax) Amendment Bill 2017.

The FPA notes the policy intent for these measures is to provide incentives for investors to increase the supply of affordable housing that is available on a long-term basis. However we question whether the right balance has been achieved between investor incentives and improving the availability of affordable housing that will meet the ongoing and long-term needs of the community.

Additional CGT discount and providing affordable housing through trusts and MITs

The Exposure Draft proposes an additional discount of up to 10 per cent if a capital gains tax event occurs to an ownership interest in a residential premises that has been used to provide affordable housing for a period or periods totalling at least three years (1095 days). This proposal applies to both direct investment in housing by an individual, and investment through an MIT.

MITs should not be treated the same as individuals investing directly in property. MITs are a regulated financial product under the Corporations Act, usually with multiple investments held at any one time.

While investors including MITs, are more willing and able to sell properties at a loss due to the fact that they can offset those losses against their income and future capital gains, due to the fact that property is one of the most heavily taxed asset classes¹ the real gain for investors is capital growth. Traditionally capital growth in property increases the longer the asset is held. This highlights that property is a medium to long term investment.

The nationwide average time a buyer held real estate before making a loss was 6.1 years for a detached house, and 6.5 years for units and apartments. Those that made a profit when selling had house and unit hold times of 9.1 and 7.6 years respectively. The average hold period for profitable houses was eight years or more, and as high as 12 years in some cases. Sales at a loss were often recorded for hold periods of less than five years.² These hold times should be reflected in the requirements to receive tax incentives to invest in affordable housing.

¹ Some state and local governments taxes are collected exclusively from investors (land tax), while investors are often charged higher rates for stamp duty and municipal rates; as well as capital gains tax paid on the gross profit of property sales.

² <http://www.eldersrealestate.com.au/2017/03/14/how-long-should-you-hold-an-investment-property-for/>



To achieve the Government's aim of improving the availability of affordable housing on an ongoing and long-term basis, we suggest it would be appropriate for a dwelling in which the ownership interest was held by an MIT was used to provide affordable housing for at least 70% to 80% of the entire ownership period and for a minimum of 1095 days.

Consumer protections

As previously stated, MITs are a regulated financial product under the Corporations Act, usually with multiple investments held at any one time. As such MITs can be complex financial products. The massive consumer losses associated with Forestry MISs and agribusiness MISs highlights the need for consideration of clear consumer protections for those considering investing in a MIT, particularly for consumers investing in such structures without financial advice.

We are concerned that neither the Explanatory Material nor the bills:

- reference the Corporations Act oversight of MITs as regulated financial products
- highlight the potential investment risks consumers should consider about MITs and the different investment strategies of MITs on the market, or
- a recommendation to seek personal financial advice to ensure an MIT is an appropriate investment for the individual's circumstances.

We would welcome the opportunity to discuss the matters raised in our submission with you further. If you have any queries, please do not hesitate to contact me on [REDACTED] or [REDACTED]

Yours sincerely

Heather McEvoy
Policy Manager
Financial Planning Association of Australia³

^{3 3} The Financial Planning Association (FPA) has more than 12,000 members and affiliates of whom 10,000 are practising financial planners and 5,600 CFP professionals. The FPA has taken a leadership role in the financial planning profession in Australia and globally:

- Our first "policy pillar" is to act in the public interest at all times.
- In 2009 we announced a remuneration policy banning all commissions and conflicted remuneration on investments and super for our members – years ahead of FOFA.
- An independent conduct review panel, Chaired by Graham McDonald (lawyer), deals with investigations and complaints against our members for breaches of our professional rules.
- The first financial planning professional body in the world to have a full suite of professional regulations incorporating a set of ethical principles, practice standards and professional conduct rules required of professional financial planning practices. This is being exported to 24 member countries and 150,000 CFP practitioners of the FPSB.
- We have built a curriculum with 17 Australian Universities for degrees in financial planning. Since 1st July 2013 all new members of the FPA have been required to hold, as a minimum, an approved undergraduate degree.
- CFP certification is the pre-eminent certification in financial planning globally. The educational requirements and standards to attain CFP standing are equal to other professional designations, eg CPA Australia.
- We are recognised as a professional body by the Tax Practitioners Board