



Corporate and International Tax Division
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Submission on Improving the Integrity of Stapled Structures (second stage) 10 August 2018

The Tax Justice Network Australia (TJN-Aus) welcomes this opportunity to make submission on the second stage of the proposed integrity measures of stapled structures. We largely welcome the proposed integrity measures. We continue to be concerned at the generous 15 year transition period for managed investment trust (MIT) cross staple arrangement income relating to a facility that is an economic infrastructure facility.

The TJN-Aus is also concerned that the Treasurer will have discretion to decide if cross-staple rent on new economic infrastructure assets will be able to access a 15 year concessional rate of withholding. There should be publicly accessible guidelines/criteria made available to indicate how the Treasurer will make such a decision, to ensure such decisions are objective, consistent and transparent. These should provide clarity as to how the Treasurer will assess that a facility will significantly enhance the long-term productive capacity of the economy and when approving the facility is in the national interest.

The TJN-Aus welcomes that an economic infrastructure facility is limited to transport, energy, communication and water infrastructure, noting that mining operations will not typically be considered economic infrastructure facilities.

The TJN-Aus supports the exemption so that income derived from affordable housing is taxed at the concessional rate.

The TJN-Aus supports the government's proposed reform to lower the associate entity threshold under the thin capitalisation rules from 50% or more to 10% or more (where they apply to determine associate entity excess amount) for interests in trusts and partnerships, as a means to address foreign investors using multiple layers of flow-through entities to convert trading income into favourably taxed interest income.

The TJN-Aus also supports the reform to require that in determining the arm's length debt amount, an entity must consider the debt to equity ratios in entities that are relevant to the considerations of an independent lender or borrower.

The TJN-Aus supports the government's proposed reform that a superannuation fund for foreign residents will be liable to withholding tax on amounts of interest, dividends and non-share dividends it receives if the fund has a non-portfolio-like interest in the entity that pays the interest, dividends or non-share dividends to it.

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Background on the Tax Justice Network Australia

The Tax Justice Network Australia (TJN-Aus) is the Australian branch of the Tax Justice Network (TJN) and the Global Alliance for Tax Justice. TJN is an independent organisation launched in the British Houses of Parliament in March 2003. It is dedicated to high-level research, analysis and advocacy in the field of tax and regulation. TJN works to map, analyse and explain the role of taxation and the harmful impacts of tax evasion, tax avoidance, tax competition and tax havens. TJN's objective is to encourage reform at the global and national levels. The Tax Justice Network aims to:

- (a) promote sustainable finance for development;
- (b) promote international co-operation on tax regulation and tax related crimes;
- (c) oppose tax havens;
- (d) promote progressive and equitable taxation;
- (e) promote corporate responsibility and accountability; and
- (f) promote tax compliance and a culture of responsibility.

In Australia the current members of TJN-Aus are:

- ActionAid Australia
- Aid/Watch
- Anglican Overseas Aid
- Australian Council for International Development (ACFID)
- Australian Council of Social Service (ACOSS)
- Australian Council of Trade Unions (ACTU)
- Australian Education Union
- Australian Manufacturing Workers Union
- Australian Nursing & Midwifery Federation
- Australian Services Union
- Australian Workers Union, Victorian Branch
- Baptist World Aid
- Caritas Australia
- Community and Public Service Union
- Electrical Trades Union, Victorian Branch
- Evatt Foundation
- Friends of the Earth
- GetUp!
- Greenpeace Australia Pacific
- International Transport Workers Federation
- Jubilee Australia
- Maritime Union of Australia
- National Tertiary Education Union
- New South Wales Nurses and Midwives' Association
- Oaktree Foundation
- Oxfam Australia
- Save the Children Australia
- Save Our Schools
- SEARCH Foundation
- SJ around the Bay
- Social Policy Connections
- TEAR Australia
- The Australia Institute
- Union Aid Abroad – APHEDA
- UnitedVoice
- Uniting Church in Australia, Synod of Victoria and Tasmania
- UnitingWorld
- Victorian Trades Hall Council
- World Vision Australia