

EXPOSURE DRAFT

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Inserts for
**Treasury Laws Amendment (Corporate
Collective Investment Vehicle) Bill 2017:
TSY/45/032 (Tax treatment)**

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.	
2.		
3.		

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Schedule #—Tax treatment of corporate collective investment vehicles

Part 1—Attribution corporate collective investment vehicles

Income Tax Assessment Act 1997

1 Section 276-20

Repeal the section, substitute:

Attribution corporate collective investment vehicles

276-20 Meaning of *attribution corporate collective investment vehicle* (or ACCIV)

- (1) An entity is an *attribution corporate collective investment vehicle* (or ACCIV) for an income year if:
- (a) the entity is a *corporate collective investment vehicle at all times when the entity is in existence during the income year; and
 - (b) each *sub-fund of the entity satisfies the requirements under subsection (2) in relation to the income year; and
 - (c) the entity satisfies the trading business restrictions under section 276-35 in relation to the income year; and
 - (d) either:
 - (i) the *corporate director of the entity has made a choice for the purposes of this subparagraph in respect of that income year; or
 - (ii) the entity was an ACCIV for an earlier income year.
- (2) A *sub-fund of the entity satisfies the requirements of this subsection if:
- (a) both of the following apply to the sub-fund:
 - (i) at the time of the first *fund payment from the sub-fund in relation to the income year, the sub-fund satisfies the widely-held requirements under section 276-25 in relation to the income year;

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- 1 (ii) the sub-fund satisfies the closely-held restrictions under
2 section 276-30 in relation to the income year; or
3 (b) the sub-fund does not have during the income year any
4 *member that is not any of the following:
5 (i) an *ACCIV for the income year;
6 (ii) a *managed investment trust in relation to the income
7 year;
8 (iii) an entity that is covered by subsection 275-20(4) (other
9 than an entity mentioned in paragraph 275-20(4)(f)).
- 10 (3) A choice for the purposes of subparagraph (1)(d)(i) cannot be
11 revoked.
- 12 (4) An entity is also an *attribution corporate collective investment*
13 *vehicle* (or *ACCIV*) for an income year if:
14 (a) the entity is a *corporate collective investment vehicle at all
15 times when the entity is in existence during the income year;
16 and
17 (b) the entity is covered under section 276-45 in relation to the
18 income year (temporary circumstances outside the control of
19 the corporate director).

20 276-25 Widely-held requirements

21 *Which widely-held requirements apply to a sub-fund of an entity*

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

34 *Wholesale membership*

- 35 (2) The *sub-fund is covered by this subsection if, at that time:
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- 1 (a) the total number of persons each of whom had become a
2 *member of the sub-fund because a financial product or a
3 financial service was provided to, or acquired by, the person
4 as a retail client (within the meaning of sections 761G and
5 761GA of the *Corporations Act 2001*) is no more than 20;
6 and
7 (b) the persons mentioned in paragraph (a) have a total *sub-fund
8 participation interest in the sub-fund of no more than 10%.

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

- 10 (3) The *sub-fund is covered by this subsection in relation to the
11 income year if:
12 (a) one or more entities covered by subsection 275-20(4) have a
13 total *sub-fund participation interest in the sub-fund of more
14 than 25% at the time mentioned in paragraph (1)(a) of this
15 section; and
16 (b) at no time in the income year does any other entity (other
17 than an entity covered by subsection 275-20(4)) have a
18 sub-fund participation interest in the sub-fund of more than
19 60%.
- 20 (4) For the purposes of paragraphs (3)(a) and (b):
21 (a) if:
22 (i) an entity covered by subsection 275-20(4) has a
23 *sub-fund participation interest (the *first interest*) in the
24 *sub-fund; and
25 (ii) a different entity covered by subsection 275-20(4) also
26 has a sub-fund participation interest (the *second*
27 *interest*) in the sub-fund;
28 disregard the second interest to the extent that it arises
29 through the existence of the first interest; and
30 (b) if an entity that is not a trust has a sub-fund participation
31 interest in the sub-fund because it holds interests in the
32 sub-fund indirectly, through a *chain of trusts—do not treat a
33 trust in the chain of trusts as having a sub-fund participation
34 interest in the sub-fund.
- 35 (5) For the purposes of paragraph (4)(b), treat an entity covered by
36 subsection 275-20(4) as an entity that is not a trust.

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- 1 (6) For the purposes of paragraphs (3)(a) and (b), apply the rules in
2 subsection 275-20(7) (rules for determining the number of
3 members of a trust).

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

- 5 (7) For the purposes of subsection (1) and paragraph (2)(a), determine
6 the number of *members of a *sub-fund of an entity as follows:

7 (a) first, by applying the rules in subsection (8), identify:

8 (i) the members of the sub-fund that are not entities
9 covered by subsection 275-20(4); and

10 (ii) the members of the sub-fund that are entities covered by
11 subsection 275-20(4);

12 (b) next, work out the number of members mentioned in
13 subparagraph (a)(i);

14 (c) next:

15 (i) work out the *sub-fund participation interest in the
16 sub-fund of each entity mentioned in
17 subparagraph (a)(ii); and

18 (ii) for each of those entities, multiply the total of its
19 sub-fund participation interest in the sub-fund by 50 and
20 round the result upwards to the nearest whole number;
21 and

22 (iii) work out the total of the results of subparagraph (ii) for
23 all of those entities;

24 (d) next, work out the total of the results of paragraphs (b) and
25 (c).

- 26 (8) The rules are as follows:

27 (a) if an entity that is not a trust holds interests in the *sub-fund
28 indirectly, through a *chain of trusts:

29 (i) treat the entity as a *member of the sub-fund; and

30 (ii) do not treat a trust in the chain of trusts as a member of
31 the sub-fund;

32 (b) do not treat an individual as a member of the sub-fund if:

33 (i) the sub-fund is covered by subsection (2) of this section
34 (wholesale membership); and

35 (ii) the individual did not become a member of the sub-fund
36 because a financial product or a financial service was
37 provided to, or acquired by, the individual as a

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- 1 wholesale client (within the meaning of section 761G of
2 the *Corporations Act 2001*);
- 3 (c) the rules in subsection 275-20(7) (including
4 subsection 275-20(8) as if it applied for the purposes of this
5 subsection).
- 6 (9) For the purposes of paragraph (8)(a), treat an entity covered by
7 subsection 275-20(4) as an entity that is not a trust.

8 **276-30 Closely-held restrictions**

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

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- 1 (4) For the purposes of paragraphs (1)(a) and (b), apply the rules in
2 subsection 275-20(7) (rules for determining the number of
3 members of a trust).

4 **276-35 Trading business restrictions**

- 5 (1) An entity satisfies the trading business restrictions under this
6 section in relation to the income year unless, at any time in the
7 income year, the entity (through one or more of its *sub-funds or
8 otherwise):
- 9 (a) carries on a trading business (within the meaning of
10 Division 6C of Part III of the *Income Tax Assessment Act*
11 *1936*); or
 - 12 (b) controls, or is able to control, directly or indirectly, the affairs
13 or operations of another person in respect of the carrying on
14 by that other person of a trading business (within the
15 meaning of that Division).

- 16 (2) For the purposes of paragraph (1)(a):

- 17 (a) the entity is not taken to carry on a trading business during
18 the income year if, for that year, no more than 2% of the
19 entity's gross revenue was income (*excluded income*) that:
 - 20 (i) was from things other than eligible investment business
21 (within the meaning of Division 6C of Part III of the
22 *Income Tax Assessment Act 1936*); and
 - 23 (ii) was not from the carrying on of a business that is not
24 incidental and relevant to the eligible investment
25 business; and
- 26 (b) the entity is not taken to carry on a trading business through
27 one of its *sub-funds during the income year if, for that year,
28 no more than 2% of the entity's gross revenue attributable to
29 that sub-fund was income that was excluded income.

30 Note: If any of the entity's sub-funds exceeds the 2% ceiling on excluded
31 income under paragraph (b), the entity will be taken to carry on a
32 trading business, even if the entity as a whole does not exceed the 2%
33 ceiling on excluded income under paragraph (a).

- 34 (3) In determining whether paragraph (1)(a) or (b) applies to an entity,
35 disregard any interest that the entity has in an *AFOF, an
36 *ESVCLP or a *VCLP unless:

- 37 (a) the entity is a *general partner of the AFOF, ESVCLP or
38 VCLP; or

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(b) the entity has *committed capital in the partnership that, taken together with the sum of the amounts of committed capital in the partnership of any of that partner's *associates (other than associates to whom subsection (4) applies), exceeds 30% of the partnership's committed capital.

- (4) This subsection applies to:
- (a) an *ADI; or
 - (b) a *life insurance company; or
 - (c) a public authority:
 - (i) that is constituted by a law of a State or internal Territory; and
 - (ii) that carries on life insurance business within the meaning of section 11 of the *Life Insurance Act 1995*; or
 - (d) a widely-held complying superannuation fund within the meaning of section 4A of the *Pooled Development Funds Act 1992*; or
 - (e) a *widely held foreign venture capital fund of funds.

276-40 Meaning of *sub-fund participation interest*

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

276-45 Extended definition of attribution corporate collective investment vehicle—temporary circumstances outside the control of the corporate director

A *corporate collective investment vehicle is covered under this section in relation to an income year if:

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- 1 (a) apart from a particular circumstance, it would be an *ACCIV
2 in relation to the income year; and
3 (b) the circumstance is temporary; and
4 (c) the circumstance arose outside the control of the *corporate
5 director of the corporate collective investment vehicle; and
6 (d) it is fair and reasonable to treat the corporate collective
7 investment vehicle as an ACCIV in relation to the income
8 year, having regard to the following matters:
9 (i) the matters in paragraphs (a) and (b);
10 (ii) the nature of the circumstance;
11 (iii) the actions (if any) taken by the corporate director to
12 address or remove the circumstance, and the speed with
13 which such actions are taken;
14 (iv) the extent to which treating the corporate collective
15 investment vehicle as an ACCIV in relation to the
16 income year would increase or reduce the amount of tax
17 otherwise payable by the corporate director, the
18 *members of the corporate collective investment vehicle
19 or any other entity;
20 (v) any other relevant matter.

21 **276-46 Consequences of transfer of assets between sub-funds**

- 22 If an asset is transferred from one *sub-fund of an *ACCIV to
23 another sub-fund of the ACCIV, in determining:
24 (a) for the purposes of this Act (other than Parts 3-1 and 3-3)
25 whether an amount is included in, or can be deducted from,
26 the assessable income of the ACCIV in respect of the transfer
27 of the asset; or
28 (b) for the purposes Parts 3-1 and 3-3:
29 (i) whether the ACCIV made a *capital gain in respect of
30 the transfer of the asset; or
31 (ii) whether the ACCIV made a *capital loss in respect of
32 the transfer of the asset;
33 the ACCIV is taken:
34 (c) to have sold, immediately before the transfer, the asset
35 transferred for a consideration equal to its *market value; and
36 (d) to have purchased the asset again at the time of the transfer
37 for a consideration equal to its market value.

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1 **Part 2—Attribution investment vehicles**

2 *Income Tax Assessment Act 1997*

3 **2 Division 276 (heading)**

4 Repeal the heading, substitute:

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

6 **Division 276—Attribution investment vehicles**

7 **3 Section 276-1**

8 Omit:

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

15 substitute:

16 An attribution investment vehicle (or AIV) for an income year can
17 be an attribution managed investment trust (or AMIT) or an
18 attribution corporate collective investment vehicle (see
19 Subdivision 276-A).

20 **4 Section 276-1**

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

23 **5 Section 276-1**

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

25 **6 Section 276-1**

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

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1 **7 Section 276-1**

2 Omit “a trust that ceases to be an AMIT”, substitute “an entity that
3 ceases to be an AIV”.

4 **8 Subdivision 276-A (heading)**

5 Repeal the heading, substitute:

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

7 **9 Section 276-5**

8 Repeal the section, substitute:

9 **276-5 What this Subdivision is about**

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

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

19 **10 Before section 276-10**

20 Insert:

21 **276-7 Meaning of *attribution investment vehicle* (or AIV)**

22 An entity mentioned in an item in column 1 of this table is an
23 ***attribution investment vehicle*** for an income year, and the entity
24 mentioned in the corresponding item in column 2 is the ***operator*** of
25 that entity:
26

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

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Item	An entity of this kind is an attribution investment vehicle of which this entity is the operator
	Column 1	Column 2
2	An *attribution corporate collective investment vehicle (see section 276-20)	The *corporate director of the ACCIV

1 **Attribution managed investment trusts**

2 **11 At the end of Subdivision 276-A**

3 Add:

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

5 **276-48 AIV with classes of membership interests—each class treated**
6 **as separate AIV**

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

- 8 (a) the *membership interests in an *AIV for an income year are
9 divided into classes; and
10 (b) the rights arising from each of those membership interests in
11 a particular class are the same as the rights arising from every
12 other of those membership interests in that class; and
13 (c) each of those membership interests in a particular class is
14 distinct from each of those membership interests in another
15 class; and
16 (d) the *operator of the AIV has made a choice for the purposes
17 of this paragraph that applies to the income year.

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

21 (3) For the purposes of this Division, allocate assessable income,
22 *exempt income, *non-assessable non-exempt income, *tax losses,
23 *net capital losses and other similar amounts in respect of the *AIV
24 between each of the separate classes mentioned in subsection (1)
25 on a fair and reasonable basis.

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Making of choice by operator

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

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

12 Section 276-75

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

13 Section 276-75

Omit “The trustee of an AMIT that is not a withholding MIT”, substitute “If an AIV is not a withholding AIV, the AIV (or, if the AIV is an AMIT, the trustee of the AMIT)”.

14 Subsection 276-80(1)

Omit “*AMIT”, substitute “*AIV”.

15 Paragraph 276-80(2)(a)

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

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

Omit “*AMIT”, substitute “*AIV”.

17 Subsection 276-80(4)

Omit “*AMIT”, substitute “*AIV”.

18 Paragraph 276-80(5)(a)

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

19 Paragraph 276-80(5)(b)

Omit “*AMIT”, substitute “*AIV”.

20 Subsection 276-85(1)

Omit “*AMIT”, substitute “*AIV”.

21 Subsection 276-85(3)

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

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1 **22 Paragraph 276-85(7)(a)**

2 Repeal the paragraph, substitute:

3 (a) the residence of:

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

5 (ii) otherwise—the AIV;

6 **23 Paragraph 276-85(7)(b)**

7 Omit “AMIT”, substitute “AIV”.

8 **24 Subsection 276-90(1)**

9 Omit “*AMIT”, substitute “*AIV”.

10 **25 Paragraph 276-90(1)(a)**

11 Omit “AMIT”, substitute “AIV”.

12 **26 Subsection 276-90(2)**

13 Omit “*AMIT”, substitute “*AIV”.

14 **27 Paragraph 276-90(3)(a)**

15 Omit “*AMIT”, substitute “*AIV”.

16 **28 Paragraph 276-90(3)(b)**

17 Omit “AMIT”, substitute “AIV”.

18 **29 Paragraph 276-90(5)(a)**

19 Omit “*AMIT”, substitute “*AIV”.

20 **30 Paragraph 276-90(5)(c)**

21 Omit “AMIT”, substitute “AIV”.

22 **31 Subsection 276-95(1)**

23 Omit “*AMIT DIR payment”, substitute “*AIV DIR payment”.

24 **32 Subsection 276-95(3) (note)**

25 Omit “AMITs”, substitute “AIVs”.

26 **33 Paragraph 276-100(1)(a)**

27 Omit “*AMIT”, substitute “*AIV”.

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

2 Omit “AMIT”, substitute “AIV”.

3 **35 Subsection 276-100(2)**

4 Omit “*AMIT”, substitute “*AIV”.

5 **36 Group heading before section 276-105**

6 Repeal the heading, substitute:

7 **Foreign resident members—taxation of AIV or trustee and**
8 **corresponding tax offset for members**

9 **37 Section 276-105 (heading)**

10 Repeal the heading, substitute:

11 **276-105 AIV or trustee taxed on foreign resident’s determined**
12 **member components**

13 **38 Paragraph 276-105(1)(a)**

14 Omit “*AMIT”, substitute “*AIV”.

15 **39 Paragraph 276-105(1)(a)**

16 Omit “AMIT”, substitute “AIV”.

17 **40 Subparagraph 276-105(1)(b)(ii)**

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

22 **41 Paragraph 276-105(1)(c)**

23 Repeal the paragraph, substitute:

24 (c) the AIV is not a *withholding AIV.

25 **42 Subsection 276-105(2)**

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

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1 **43 Subsection 276-105(6) (heading)**

2 Repeal the heading, substitute:

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

5 **44 Subsection 276-105(6)**

6 Omit “*AMIT DIR payment”, substitute “*AIV DIR payment”.

7 **45 Subsection 276-105(7)**

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

9 **46 Subsection 276-110(1)**

10 After “applies if”, insert “an *AIV or”.

11 **47 Subsection 276-110(2)**

12 After “paid by the”, insert “*AIV or”.

13 **48 Section 276-115 (heading)**

14 Repeal the heading, substitute:

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

16 **49 Paragraph 276-115(1)(a)**

17 Omit “*AMIT”, substitute “*AIV”.

18 **50 Paragraphs 276-115(1)(b) and (c)**

19 Omit “AMIT”, substitute “AIV”.

20 **51 Paragraph 276-115(3)(a)**

21 Omit “*AMIT”, substitute “*AIV”.

22 **52 Paragraph 276-115(3)(b)**

23 Omit “AMIT”, substitute “AIV”.

24 **53 Section 276-200**

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

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1 54 Section 276-200

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

3 55 Subsection 276-205(1)

4 Omit “*AMIT”, substitute “*AIV”.

5 56 Subsection 276-205(1)

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

8 57 Subparagraph 276-205(2)(b)(ii)

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

11 58 Paragraph 276-205(2)(c)

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

13 59 Subsection 276-205(4)

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

15 60 Subsection 276-205(4)

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

18 61 Subsection 276-205(4) (example)

19 Repeal the example, substitute:

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

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

28 62 Subsection 276-210(1)

29 Omit “*AMIT”, substitute “*AIV”.

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1 **63 Subsection 276-210(2)**

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

4 **64 Subsection 276-210(2)**

5 Omit “AMIT”, substitute “AIV”.

6 **65 Subsection 276-210(3)**

7 Omit “*AMIT”, substitute “*AIV”.

8 **66 Subsection 276-210(4)**

9 Omit “*determined trust component”, substitute “*determined AIV
10 component”.

11 **67 Paragraph 276-210(5)(a)**

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

14 **68 Subparagraph 276-210(5)(a)(i)**

15 Omit “AMIT”, substitute “AIV”.

16 **69 Paragraph 276-210(5)(b)**

17 Omit “trustee”, substitute “operator”.

18 **70 Subparagraph 276-210(6)(a)(i)**

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

21 **71 Subparagraph 276-210(6)(a)(ii)**

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

24 **72 Paragraph 276-210(6)(b)**

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

26 **73 Paragraph 276-210(7)(a)**

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

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74 Paragraph 276-210(7)(a)

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

75 Paragraph 276-210(7)(b)

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

76 Subdivision 276-E (heading)

Repeal the heading, substitute:

Subdivision 276-E—AIV components

77 Section 276-250

Repeal the section, substitute:

276-250 What this Subdivision is about

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

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

78 Group heading before section 276-255

Repeal the heading, substitute:

AIV-level component concepts

79 Section 276-255 (heading)

Repeal the heading, substitute:

EXPOSURE DRAFT

1 276-255 Meaning of *determined AIV component*

2 80 Subsection 276-255(1)

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

5 81 Subsection 276-255(1)

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

7 82 Paragraph 276-255(2)(a)

8 Omit “*AMIT”, substitute “*AIV”.

9 83 Paragraph 276-255(2)(b)

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

11 84 Paragraphs 276-255(2)(c) and (d)

12 Repeal the paragraphs, substitute:

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

19 85 Subsection 276-255(3) (example)

20 Repeal the example, substitute:

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

29 86 Section 276-260 (heading)

30 Repeal the heading, substitute:

EXPOSURE DRAFT

1 276-260 Meaning of AIV component

2 87 Subsection 276-260(1)

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

4 88 Subsection 276-260(2)

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

7 89 Subsection 276-260(2)

8 Omit “AMIT”, substitute “AIV”.

9 90 Subsection 276-260(4)

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

11 91 At the end of section 276-260

12 Add:

13 (5) If:

14 (a) the *AIV is an *ACCIV; and

15 (b) another entity is its *depository during an income year;

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

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

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

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

25 92 Section 276-265 (heading)

26 Repeal the heading, substitute:

EXPOSURE DRAFT

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

93 Subsection 276-265(1)

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

94 Subsection 276-265(2) (heading)

Repeal the heading, substitute:

AIV components of assessable income character are net of deductions

95 Subsection 276-265(2)

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

96 Subsection 276-265(2)

Omit “*AMIT”, substitute “*AIV”.

97 Subsection 276-265(2)

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

98 Subsection 276-265(3)

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

99 Subsection 276-265(3)

Omit “*AMIT”, substitute “*AIV”.

100 Section 276-270 (heading)

Repeal the heading, substitute:

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

101 Section 276-300

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

102 Group heading before section 276-305

Repeal the heading, substitute:

EXPOSURE DRAFT

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

2 **103 Section 276-305 (heading)**

3 Repeal the heading, substitute:

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

5 **104 Subsection 276-305(1)**

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

8 **105 Subsection 276-305(1)**

9 Omit “AMIT”, substitute “AIV”.

10 **106 Subsection 276-305(2) (heading)**

11 Repeal the heading, substitute:

12 *Unders increase AIV component*

13 **107 Subsection 276-305(2)**

14 Omit “*AMIT”, substitute “*AIV”.

15 **108 Subsection 276-305(2)**

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

17 **109 Subsection 276-305(3) (heading)**

18 Repeal the heading, substitute:

19 *Overs decrease AIV component*

20 **110 Subsection 276-305(3)**

21 Omit “*AMIT”, substitute “*AIV”.

22 **111 Subsection 276-305(3)**

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

24 **112 Section 276-310 (heading)**

25 Repeal the heading, substitute:

EXPOSURE DRAFT

1 276-310 Rounding adjustment deficit increases AIV component

2 113 Subsection 276-310(1)

3 Omit “*AMIT”, substitute “*AIV”.

4 114 Subsection 276-310(1)

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

6 115 Subsection 276-310(2)

7 Omit “*AMIT”, substitute “*AIV”.

8 116 Paragraph 276-310(2)(a)

9 Omit “AMIT”, substitute “AIV”.

10 117 Paragraph 276-310(2)(b)

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

12 118 Section 276-315 (heading)

13 Repeal the heading, substitute:

14 276-315 Rounding adjustment surplus decreases AIV component

15 119 Subsection 276-315(1)

16 Omit “*AMIT”, substitute “*AIV”.

17 120 Subsection 276-315(1)

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

19 121 Subsection 276-315(2)

20 Omit “*AMIT”, substitute “*AIV”.

21 122 Paragraph 276-315(2)(a)

22 Omit “AMIT”, substitute “AIV”.

23 123 Paragraph 276-315(2)(b)

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

25 124 Subsection 276-315(3)

26 Omit “*AMIT”, substitute “*AIV”.

EXPOSURE DRAFT

1 **125 Paragraph 276-315(3)(a)**

2 Omit “AMIT”, substitute “AIV”.

3 **126 Paragraph 276-315(3)(b)**

4 Repeal the paragraph, substitute:

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

7 **127 Subsection 276-315(4)**

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

9 **128 Section 276-320 (heading)**

10 Repeal the heading, substitute:

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

12 **129 Section 276-320**

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

14 **130 Paragraph 276-320(a)**

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

16 **131 Paragraph 276-320(b)**

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

19 **132 Section 276-325 (heading)**

20 Repeal the heading, substitute:

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

25 **133 Subsection 276-325(1) (heading)**

26 Repeal the heading, substitute:

EXPOSURE DRAFT

Section applies to AIV component of assessable income character

1
2 **134 Subsection 276-325(1)**

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

4 **135 Subsection 276-325(2) (heading)**

5 Repeal the heading, substitute:

6 *Cross-character allocation amount decreases AIV component*

7 **136 Subsection 276-325(2)**

8 Omit “*AMIT”, substitute “*AIV”.

9 **137 Subsection 276-325(2)**

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

11 **138 Subsection 276-325(2) (note)**

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

13 **139 Subsection 276-325(3) (heading)**

14 Repeal the heading, substitute:

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

16 **140 Subsection 276-325(3)**

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

19 **141 Subsection 276-325(3)**

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

21 **142 Subsection 276-325(3) (note)**

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

24 **143 Subsection 276-325(4) (heading)**

25 Repeal the heading, substitute:

EXPOSURE DRAFT

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

1
2
3 **144 Paragraph 276-325(4)(a)**

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

5 **145 Paragraph 276-325(4)(b)**

6 Omit “*AMIT”, substitute “*AIV”.

7 **146 Subsection 276-325(4)**

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

9 **147 Section 276-330 (heading)**

10 Repeal the heading, substitute:

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

13 **148 Subsection 276-330(1) (heading)**

14 Repeal the heading, substitute:

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

16 **149 Subsection 276-330(1)**

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

18 **150 Subsection 276-330(2)**

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

20 **151 Subsection 276-330(2)**

21 Omit “*trust component deficit”, substitute “*AIV component deficit”.

22 **152 Subsection 276-330(2)**

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

25 **153 Subsection 276-330(3)**

26 Repeal the subsection, substitute:

EXPOSURE DRAFT

1 (3) For the *operator to make an allocation under subsection (2), the
2 operator:

3 (a) must allocate that *AIV component deficit between those
4 other *AIV components on a reasonable basis; and

5 (b) cannot allocate more to an AIV component than the amount
6 of that AIV component.

7 **154 Subsection 276-330(4)**

8 Omit “trustee”, substitute “*operator”.

9 **155 Subsection 276-330(4)**

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

11 **156 Subsection 276-330(5) (heading)**

12 Repeal the heading, substitute:

13 *Carry-forward AIV component deficit*

14 **157 Subsection 276-330(5)**

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

16 **158 Subsection 276-330(5)**

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

19 **159 Paragraph 276-335(1)(a)**

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

22 **160 Paragraph 276-335(1)(b)**

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

25 **161 Subsection 276-335(2)**

26 Omit “*AMIT”, substitute “*AIV”.

27 **162 Paragraph 276-335(2)(a)**

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

EXPOSURE DRAFT

1 **163 Subparagraph 276-335(2)(b)(i)**

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

3 **164 Section 276-340 (heading)**

4 Repeal the heading, substitute:

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

7 **165 Paragraph 276-340(1)(a)**

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

10 **166 Paragraph 276-340(1)(b)**

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

12 **167 Paragraph 276-340(1)(c)**

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

15 **168 Subsection 276-340(2) (heading)**

16 Repeal the heading, substitute:

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

18 **169 Subsection 276-340(2)**

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

21 **170 Subsection 276-340(2)**

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

23 **171 Subsection 276-340(2) (note)**

24 Omit “*Income Tax (Attribution Managed Investment Trusts—Offsets)*
25 *Act 2016*”, substitute “*Income Tax (Attribution Investment Vehicles—*
26 *Offsets) Act 2016*”.

27 **172 Subsection 276-345(1)**

28 Omit “*AMIT’s”, substitute “*AIV’s”.

EXPOSURE DRAFT

1 **173 Subsection 276-345(2)**

2 Omit “trustee works out the *determined trust component”, substitute
3 “*operator of the *AIV works out the *determined AIV component”.

4 **174 Subsection 276-345(2) (note)**

5 Omit “determined trust component”, substitute “determined AIV
6 component”.

7 **175 Paragraph 276-345(3)(a)**

8 Omit “*AMIT’s *trust component”, substitute “*AIV’s *AIV
9 component”.

10 **176 Paragraph 276-345(3)(a)**

11 Omit “trustee’s”, substitute “*operator’s”.

12 **177 Subparagraph 276-345(3)(b)(i)**

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

15 **178 Subsections 276-345(4) and (5)**

16 Omit “*AMIT”, substitute “*AIV”.

17 **179 Section 276-350**

18 Omit “*AMIT”, substitute “*AIV”.

19 **180 Paragraph 276-350(a)**

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

21 **181 Paragraph 276-350(a)**

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

24 **182 Section 276-400**

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

27 **183 Group heading before section 276-405**

28 Repeal the heading, substitute:

EXPOSURE DRAFT

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

2 **184 Section 276-405 (heading)**

3 Repeal the heading, substitute:

4 **276-405 AIV or trustee taxed on shortfall in determined member**
5 **component (character relating to assessable income)**

6 **185 Subsection 276-405(1)**

7 Omit “*AMIT”, substitute “*AIV”.

8 **186 Paragraph 276-405(1)(a)**

9 Omit “AMIT”, substitute “AIV”.

10 **187 Subsection 276-405(2)**

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

12 the trustee of the AMIT)”.

13 **188 Subsection 276-405(2)**

14 Omit “*AMIT”, substitute “AIV”.

15 **189 Section 276-410 (heading)**

16 Repeal the heading, substitute:

17 **276-410 AIV or trustee taxed on excess in determined member**
18 **component (character relating to tax offset)**

19 **190 Subsection 276-410(1)**

20 Omit “*AMIT”, substitute “*AIV”.

21 **191 Paragraph 276-410(1)(a)**

22 Omit “AMIT”, substitute “AIV”.

23 **192 Subsection 276-410(2)**

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

25 the trustee of the AMIT)”.

26 **193 Subsection 276-410(2)**

27 Omit “*AMIT”, substitute “AIV”.

EXPOSURE DRAFT

1 **194 Subsection 276-410(2) (note)**

2 Omit “*Income Tax (Attribution Managed Investment Trusts—Offsets)*
3 *Act 2016*”, substitute “*Income Tax (Attribution Investment Vehicles—*
4 *Offsets) Act 2016*”.

5 **195 Section 276-415 (heading)**

6 Repeal the heading, substitute:

7 **276-415 AIV or trustee taxed on amounts of determined AIV**
8 **component that are not reflected in determined member**
9 **components**

10 **196 Subsection 276-415(1)**

11 Omit “*AMIT”, substitute “*AIV”.

12 **197 Paragraph 276-415(1)(a)**

13 Omit “AMIT”, substitute “AIV”.

14 **198 Paragraph 276-415(1)(b)**

15 Omit “*determined trust component”, substitute “*determined AIV
16 component”.

17 **199 Paragraph 276-415(1)(b)**

18 Omit “AMIT”, substitute “AIV”.

19 **200 Subsection 276-415(2)**

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

22 **201 Paragraph 276-415(2)(a)**

23 Omit “*AMIT”, substitute “AIV”.

24 **202 Subsection 276-415(3)**

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

26 **203 Section 276-420 (heading)**

27 Repeal the heading, substitute:

EXPOSURE DRAFT

1 **276-420 AIV or trustee taxed on amounts of under of character**
2 **relating to assessable income not properly carried**
3 **forward**

4 **204 Subsection 276-420(1)**

5 Omit “*AMIT”, substitute “*AIV”.

6 **205 Paragraph 276-420(1)(a)**

7 Omit “AMIT”, substitute “AIV”.

8 **206 Paragraph 276-420(1)(a)**

9 Omit “trustee on the basis of the trustee’s”, substitute “*operator on the
10 basis of the operator’s”.

11 **207 Paragraph 276-420(1)(b)**

12 Omit “trustee”, substitute “operator”.

13 **208 Subsection 276-420(2)**

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

16 **209 Subsection 276-420(2)**

17 Omit “*AMIT”, substitute “AIV”.

18 **210 Paragraph 276-420(4)(b)**

19 Omit “*AMIT”, substitute “*AIV”.

20 **211 Section 276-425 (heading)**

21 Repeal the heading, substitute:

22 **276-425 AIV or trustee taxed on amounts of over of character**
23 **relating to tax offset not properly carried forward**

24 **212 Subsection 276-425(1)**

25 Omit “*AMIT”, substitute “*AIV”.

26 **213 Paragraph 276-425(1)(a)**

27 Omit “AMIT”, substitute “AIV”.

EXPOSURE DRAFT

214 Paragraph 276-425(1)(a)

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

215 Paragraph 276-425(1)(b)

Omit “trustee”, substitute “operator”.

216 Subsection 276-425(2)

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

217 Subsection 276-425(2)

Omit “*AMIT”, substitute “AIV”.

218 Subsection 276-425(2) (note)

Omit “*Income Tax (Attribution Managed Investment Trusts—Offsets) Act 2016*”, substitute “*Income Tax (Attribution Investment Vehicles—Offsets) Act 2016*”.

219 Paragraph 276-425(4)(b)

Omit “*AMIT”, substitute “*AIV”.

220 Subdivision 276-H

Repeal the Subdivision, substitute:

Subdivision 276-H—AIVMA statements

Guide to Subdivision 276-H

276-450 What this Subdivision is about

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

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Operative provisions

276-455 Obligation to give an AIVMA statement

EXPOSURE DRAFT

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

Operative provisions

276-455 Obligation to give an AIVMA statement

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

Note: Section 286-75 in Schedule 1 to the *Taxation Administration Act 1953* provides an administrative penalty for breach of this subsection.

- (2) The statement must be given no later than 3 months after the end of the income year.
- (3) However, the *AIV need not give an *AIV statement under subsection (1) to a *member if:
- (a) all of the member's *determined member components for the AIV for the income year are nil; and
 - (b) all of the member's *membership interests in the AIV have an *AIV cost base net amount for the income year of nil.
- (4) To avoid doubt, the *AIV does not fail to comply with subsection (1) merely because:
- (a) the AIV gives *AIVMA statements for the income year to *members in accordance with subsection (1) by the time required under subsection (2); and
 - (b) after that time, the AIV gives those members further AIVMA statements for the income year that replace the AIVMA statements mentioned in paragraph (a).

276-460 AIV member annual statement (or AIVMA statement)

- (1) An *AIV member annual statement (or AIVMA statement)* is a statement made by an *AIV for an income year in accordance with this section.
- (2) The statement must:
- (a) include information that reflects the amount and character of each *member component of the *member for the income year; and
 - (b) state what the *operator of the *AIV reasonably estimates to be the amount of the excess or shortfall mentioned in

EXPOSURE DRAFT

1 section 104-610 (AIV cost base net amount) for the income
2 year in respect of the *CGT asset that is the member's unit or
3 interest in the AIV.

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

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

10 **221 Section 276-500**

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

12 **222 Section 276-515 (heading)**

13 Repeal the heading, substitute:

14 **276-515 Distribution on debt-like trust instrument could be** 15 **deductible in working out AIV components**

16 **223 Subdivision 276-K (heading)**

17 Repeal the heading, substitute:

18 **Subdivision 276-K—Ceasing to be an AIV**

19 **224 Section 276-800**

20 Repeal the section, substitute:

21 **276-800 What this Subdivision is about**

22 If an entity ceases to be an AIV, and discovers an under or over
23 from an income year when it was an AIV, the under or over will
24 have taxation consequences for the entity in the discovery year.

25 **225 Sections 276-805 and 276-810**

26 Repeal the sections, substitute:

27 **276-805 Application of Subdivision to former AIV**

28 This Subdivision applies if:

EXPOSURE DRAFT

-
- 1 (a) an entity was an *AIV for an income year; and
2 (b) the entity is *not* an AIV for a later income year (the *discovery*
3 *year*).

4 **276-810 Continue to work out AIV components, unders, overs etc.**

- 5 (1) For the purposes of this section, assume that the entity is an *AIV
6 for the discovery year.
- 7 (2) If the entity has an *under or *over of a character in the discovery
8 year for an earlier income year when the trust was an *AIV, work
9 out the extent to which the under or over:
- 10 (a) increases the amount of the AIV's *AIV component of that
11 character for the discovery year; or
- 12 (b) decreases the amount of the AIV's AIV component of that
13 character for the discovery year.

14 **226 Subsection 276-815(2)**

15 Omit “trust”, substitute “entity”.

16 **227 Subsection 276-815(3)**

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

18 **228 Subsections 276-815(5), (6) and (7)**

19 Omit “trust” (wherever occurring), substitute “entity”.

20 **229 Subparagraph 276-820(2)(a)(i)**

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

22 **230 Subparagraph 276-820(2)(a)(ii)**

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

24 **231 Paragraph 276-820(2)(a)**

25 Omit “trust”, substitute “entity”.

26 **232 Subparagraphs 276-820(2)(b)(i) and (ii)**

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

28 **233 Paragraphs 276-820(2)(b) and (c)**

29 Omit “trust”, substitute “entity”.

EXPOSURE DRAFT

1 **234 Subsections 276-820(3), (4) and (5)**

2 Omit “trust”, substitute “entity”.

3 **235 Paragraph 276-820(6)(a)**

4 Omit “trustee”, substitute “entity (or, if the entity is a trust, the trustee)”.

5 **236 Paragraph 276-820(6)(a) (note)**

6 Omit “*Income Tax (Attribution Managed Investment Trusts—Offsets)*
7 *Act 2016*”, substitute “*Income Tax (Attribution Investment Vehicles—*
8 *Offsets) Act 2016*”.

9 **237 Subsection 276-820(7)**

10 Omit “trust’s”, substitute “entity’s”.

11 ***Taxation Administration Act 1953***

12 **238 Paragraph 286-75(2AB)(a) in Schedule 1**

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

14 **239 Section 288-115 in Schedule 1 (heading)**

15 Repeal the heading, substitute:

16 **288-115 AIV under or over resulting from intentional disregard of**
17 **or recklessness as to taxation law**

18 **240 Paragraph 288-115(1)(a) in Schedule 1**

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

20 **241 Paragraph 288-115(1)(b) in Schedule 1**

21 Omit “AMIT”, substitute “AIV”.

22 **242 Subsection 288-115(3) in Schedule 1 (table items 1 and 2,**
23 **column 1)**

24 Omit “trustee of the *AMIT or the trustee’s agent”, substitute “*operator
25 of the *AIV or the operator’s agent”.

EXPOSURE DRAFT

1 **Part 3—Capital gains tax**

2 *Income Tax Assessment Act 1997*

3 **243 Paragraph 70-10(2)(b)**

4 After “section 275-105”, insert “or 276-110”.

5 **244 Section 104-5 (table item E10)**

6 Repeal the item.

7 **245 Section 104-5 (at the end of the table)**

8 Add:

M1 Annual cost base reduction exceeds cost base of interest in AIV	when reduction happens	excess of cost base reduction over cost base	<i>no capital loss</i>
--	---------------------------	--	----------------------------

[See section 104-600]

9 **246 Subsection 104-70(1A)**

10 Omit “*AMIT”, substitute “*AIV”.

11 **247 At the end of subsection 104-70(1A)**

12 Add:

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

15 **248 Sections 104-107A to 104-107H**

16 Repeal the sections.

17 **249 After subsection 104-135(1)**

18 Insert:

19 (1AA) However, *CGT event GI* does not happen if the *share mentioned
20 in subsection (1) is a share in an *AIV.

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

22 **250 At the end of Division 104**

23 Add:

EXPOSURE DRAFT

Subdivision 104-M—Attribution investment vehicles

Table of sections

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

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

- (1) *CGT event M1* happens if:
- (a) you are a *member of an *AIV in respect of an income year because you have a *CGT asset that is your *share, your unit or your interest in the AIV; and
 - (b) the *cost base of that asset is reduced under subsection 104-605(2) at a time; and
 - (c) the asset's *AIV cost base net amount for the income year in which the reduction occurs exceeds the cost base of the asset.

- (2) The time of the event is the time at which the reduction occurs under section 104-605.

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

- (a) if the *cost base of that asset is reduced to nil under subsection 104-605(2)—the *AIV cost base net amount mentioned in paragraph (1)(c) of this section; or
- (b) otherwise—the excess mentioned in that paragraph.

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

Note 2: You cannot make a capital loss.

Exceptions

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

EXPOSURE DRAFT

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

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

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

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

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

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

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

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

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

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

104-610 AIV cost base net amount

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

(a) if the CGT asset's *AIV cost base reduction amount for the income year exceeds the CGT asset's *AIV cost base increase amount for the income year—the amount of the excess; or

(b) if the CGT asset's AIV cost base reduction amount for the income year falls short of the CGT asset's AIV cost base increase amount for the income year—the amount of the shortfall.

EXPOSURE DRAFT

104-615 AIV cost base reduction amount

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

4 (a) money, and the *market value of any property, if:

5 (i) you start to have a right to receive the money or
6 property from the *AIV (or, if the AIV is an *AMIT, the
7 trustee of the AMIT) in the income year; and

8 (ii) that right is indefeasible (disregarding section 276-55)
9 or is reasonably likely not to be defeated; and

10 (b) all amounts of *tax offset that you have for the income year
11 in respect of the AIV because of the operation of
12 section 276-80;

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

15 (2) If:

16 (a) *CGT event A1, C2, E1, E2, E6 or E7 happens to the *CGT
17 asset before the end of the income year; and

18 (b) as a result, the time of the reduction or increase mentioned in
19 subsection 104-605(4) is just before the time of that CGT
20 event;

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

23 104-620 AIV cost base increase amount

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

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

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

32 (a) amounts so included because of the operation of
33 section 276-80;

34 (b) amounts so included otherwise than because of the operation
35 of section 276-80 (as reduced in accordance with
36 section 276-100).

EXPOSURE DRAFT

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

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

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

8 *Residence assumption*

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

11 **104-625 Receipt of money etc. increasing AIV cost base reduction**
12 **amount not to be treated as income**

- 13 (1) Subsections (2) and (3) apply if:
14 (a) you start to have a right to receive any money or any property
15 from the *AIV (or, if the AIV is an *AMIT, the trustee of the
16 AMIT) in an income year; and
17 (b) the right is indefeasible (disregarding section 276-55) or is
18 reasonably likely not to be defeated; and
19 (c) the right is *not* remuneration or consideration for you
20 providing finance, services, goods or property to the AIV (or
21 trustee) or to another person; and
22 (d) the right is reasonably attributable to a *CGT asset that is a
23 *membership interest in the AIV; and
24 (e) the CGT asset is *neither* *trading stock nor a *Division 230
25 financial arrangement; and
26 (f) as a result of you starting to have the right, the CGT asset's
27 *AIV cost base reduction amount for the income year is
28 increased because of the operation of section 104-615.
- 29 (2) These provisions do not apply to you starting to have the right:
30 (a) sections 6-5 (about *ordinary income), 8-1 (about amounts
31 you can deduct), 15-15 and 25-40 (about profit-making
32 undertakings or plans);
33 (b) sections 25A and 52 of the *Income Tax Assessment Act 1936*
34 (about profit-making undertakings or schemes).

EXPOSURE DRAFT

-
- 1 (3) Section 6-10 (about *statutory income) does not apply to you
2 starting to have the right except so far as that section applies in
3 relation to section 102-5 (about net capital gains).

4 **104-630 Effect of AIV cost base net amount on cost of AIV**
5 **membership interest or unit that is a revenue asset—**
6 **adjustment of cost of asset**

- 7 (1) This section applies if:
- 8 (a) you are a *member of an *AIV in respect of an income year
9 because you have a *CGT asset that is your *share, your unit
10 or your interest in the AIV; and
- 11 (b) the CGT asset is a *revenue asset; and
- 12 (c) the CGT asset is not a *Division 230 financial arrangement.
- 13 (2) Make the adjustments in subsection (3) for the purposes of working
14 out an amount included in your assessable income (or working out
15 an amount treated as a deduction) under any of these provisions:
- 16 (a) sections 6-5 (about *ordinary income), 8-1 (about amounts
17 you can deduct), 15-15 and 25-40 (about profit-making
18 undertakings or plans);
- 19 (b) sections 25A and 52 of the *Income Tax Assessment Act 1936*
20 (about profit-making undertakings or schemes).
- 21 (3) If the *CGT asset's *AIV cost base net amount for the income year
22 is the excess mentioned in paragraph 104-610(a):
- 23 (a) in a case where that AIV cost base net amount exceeds the
24 cost of the asset—reduce the cost of the asset to nil; or
- 25 (b) otherwise—reduce the cost of the asset by that AIV cost base
26 net amount.
- 27 Note: If the AIV cost base net amount exceeds the cost of the asset, see
28 section 104-635.
- 29 (4) If the *CGT asset's *AIV cost base net amount for the income year
30 is the shortfall mentioned in paragraph 104-610(b), increase the
31 cost of the asset by that AIV cost base net amount.
- 32 (5) The time of the reduction or increase is:
- 33 (a) unless paragraph (b) applies—just before the end of the
34 income year; or

EXPOSURE DRAFT

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

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

8 (a) the right is for you to receive any money or any property
9 from the *AIV (or, if the AIV is an *AMIT, the trustee of the
10 AMIT); and

11 (b) the right is remuneration or consideration for you providing
12 finance, services, goods or property to the AIV (or trustee) or
13 to another person.

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

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

18 **104-635 Effect of AIV cost base net amount on cost of AIV** 19 **membership interest or unit that is a revenue asset—** 20 **amount included in assessable income**

21 (1) Subsection (2) applies if:

22 (a) paragraph 104-630(3)(a) applies in respect of the *CGT
23 asset's *AIV cost base net amount for the income year; and

24 (b) that AIV cost base net amount exceeds the cost of the *CGT
25 asset just before the time mentioned in
26 subsection 104-630(5).

27 (2) Include in your assessable income for the income year in which
28 that time occurs:

29 (a) if the cost of the *CGT asset was nil just before that time—
30 the cost reduction amount; or

31 (b) otherwise—the excess mentioned in paragraph (1)(b).

32 (3) Subsection (2) applies despite subsection 104-625(3).

33 (4) For the purposes of section 118-20, treat this section as being
34 outside of this Part.

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

EXPOSURE DRAFT

251 At the end of section 124-850

Add “There are additional requirements if the roll-over is from an AMIT to an ACCIV.”.

252 Paragraph 124-855(1)(b)

After “*CGT event E4”, insert “or *CGT event M1”.

253 After paragraph 124-855(1)(b)

Insert:

(ba) in a case where the transferor is an *AMIT—the transferee is an *ACCIV; and

254 Subsection 124-855(2)

Repeal the subsection, substitute:

(2) For 2 or more transferors:

(a) if none of the transferors is an *AMIT—units and interests in each transferor must be owned in the same proportions by the same beneficiaries; or

(b) if any of the transferors is an AMIT:

(i) each transferor must be an AMIT; and

(ii) each transferor must not hold an interest in any of the other transferors; and

(iii) there must be a separate *sub-fund in the transferee in relation to each transferor; and

(iv) units and interests in each such sub-fund relating to a transferor must be owned in the same proportions by the same beneficiaries of that transferor.

Example: Matthew and Jaclyn each own 50% of the units in the Spring Unit Trust and the Dale Unit trust. Neither trust is an AMIT. All of the assets of both trusts are disposed of to Jonathon Pty Ltd. A roll-over for a trust restructure is available if the other requirements of this Subdivision are met.

255 At the end of subsection 124-860(5)

Add “(unless the transferor is an *AMIT)”.

256 After subsection 124-860(5)

Insert:

EXPOSURE DRAFT

1 (5A) If the transferor is an *AMIT, paragraph (4)(b) applies only in
2 relation to the *sub-fund in the transferee that is the sub-fund
3 relating to the transferor.

4 **257 Paragraph 124-860(6)(a)**

5 Repeal the paragraph, substitute:

6 (a) each entity that owned interests in a transferor just before the
7 start of the trust restructuring period must own replacement
8 interests in:

9 (i) if the transferor is not an *AMIT—the transferee; or

10 (ii) if the transferor is an AMIT—the *sub-fund in the
11 transferee that is the sub-fund relating to the transferor;

12 in the same proportion as it owned those interests in that
13 transferor; and

14 **258 Paragraph 124-860(6)(b)**

15 After “the transferee”, insert “or sub-fund (as the case requires)”.

16 **259 Section 124-865**

17 Before “A roll-over”, insert “(1)”.

18 **260 At the end of section 124-865 (after the notes)**

19 Add:

20 (2) However, if the transferor is an *AMIT, a roll-over is available for
21 the transferor and transferee if both:

22 (a) the transferor; and

23 (b) the *operator of the transferee;

24 choose to obtain it.

25 **261 After subsection 124-870(2)**

26 Insert:

27 (2A) If the transferor is an *AMIT, you are taken to have chosen to
28 obtain a roll-over if:

29 (a) a roll-over is available for the transferor and transferee under
30 section 124-855; and

31 (b) either:

32 (i) you are an Australian resident; or

EXPOSURE DRAFT

1 (ii) the replacement interests you *acquire in the transferee
2 are *taxable Australian property just after their
3 acquisition.

4 You cannot otherwise choose under this section to obtain a
5 roll-over.

6 **262 After Subdivision 276-J**

7 Insert:

8 **Subdivision 276-JA—Choice for capital treatment of AIV gains** 9 **and losses**

10 **Guide to Subdivision 276-JA**

11 **276-600 What this Subdivision is about**

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

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

18 **Table of sections**

19 **Operative provisions**

20	276-605	Consequences of making choice—CGT to be primary code for calculating
21		AIV gains or losses
22	276-610	Covered assets
23	276-615	AIV CGT choices
24	276-620	Consequences of not making choice—revenue account treatment

25 **Operative provisions**

26 **276-605 Consequences of making choice—CGT to be primary code** 27 **for calculating AIV gains or losses**

- 28 (1) The modifications in subsection (3) apply if:
29 (a) a *CGT event happens at a time involving a *CGT asset; and

EXPOSURE DRAFT

- 1 (b) the CGT asset is owned at that time by an entity that is an
2 *AIV, but not an *AMIT, for the income year in which the
3 time occurs; and
4 (c) the CGT event happens because the AIV *disposes of, ceases
5 to own or otherwise realises the asset; and
6 (d) the asset is covered by section 276-610; and
7 (e) a choice under section 276-615 covering the entity is in force
8 for the income year in which the time occurs.

- 9 (2) Without limiting paragraph (1)(b), if:
10 (a) a *VCLP or an *ESVCLP owns a *CGT asset at the time
11 referred to in that paragraph; and
12 (b) at that time, the *AIV has an interest in the asset as a *limited
13 partner of the VCLP or ESVCLP;
14 for the purposes of that paragraph, the AIV is taken to own the
15 asset to the extent of that interest.

- 16 (3) These provisions do not apply to the *CGT event:
17 (a) sections 6-5 (about *ordinary income), 8-1 (about amounts
18 you can deduct), and 15-15 and 25-40 (about profit-making
19 undertakings or plans);
20 (b) sections 25A and 52 of the *Income Tax Assessment Act 1936*
21 (about profit-making undertakings or schemes);
22 (c) section 118-20 (about reducing capital gains if amount
23 otherwise assessable);
24 (d) Division 70 and section 118-25 (about trading stock).

25 *General exceptions*

- 26 (4) The provisions referred to in subsection (3) can apply to the *CGT
27 event if a *capital gain or *capital loss from the event is disregarded
28 because of one of the provisions in this table:
29

Where gain or loss disregarded because of CGT provision

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

EXPOSURE DRAFT

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

- 1
2
- 3 (5) The provisions referred to in subsection (3) can also apply to the
4 *CGT event if:
- 5 (a) where the *CGT asset is land (including an interest in land),
6 or a right or option to *acquire or *dispose of land (including
7 an interest in land):
- 8 (i) the CGT asset is *trading stock; or
9 (ii) the circumstances existing at the time of the event
10 would, disregarding this Subdivision, give rise to an
11 amount being included in the assessable income of the
12 entity under section 15-15 or to a deduction for the
13 entity under section 25-40 (about profit-making
14 undertakings or plans); or
- 15 (b) where paragraph (a) does not apply:
- 16 (i) the *AIV acquired the CGT asset in an income year for
17 which the choice mentioned in paragraph (1)(e) was not
18 in force; and
- 19 (ii) the CGT asset was treated as trading stock in the AIV's
20 financial report for the most recent income year ending
21 before the start of the income year in which that choice
22 first came into force; and
- 23 (iii) the CGT asset was treated as trading stock in the
24 *income tax return for the AIV for the most recent
25 income year ending before the start of the income year
26 in which that choice first came into force; and
- 27 (iv) the CGT asset was treated as trading stock in the AIV's
28 financial report for the most recent income year ending
29 before the time of the event; and
- 30 (v) the CGT asset was treated as trading stock in the income
31 tax return for the AIV for the most recent income year
32 ending before the time of the event.

33 *Treatment of outgoings to acquire trading stock*

- 34 (6) The modifications in subsection (7) apply if:
- 35 (a) an entity that is an *AIV, but not an *AMIT, for the income
36 year *acquires a *CGT asset at a time in that income year;
37 and
- 38 (b) the CGT asset is an item of *trading stock; and

EXPOSURE DRAFT

-
- 1 (c) the CGT asset is *not* land (including an interest in land), or a
2 right or option to acquire or *dispose of land (including an
3 interest in land); and
4 (d) the entity incurs an outgoing in connection with acquiring the
5 asset; and
6 (e) the asset is covered by section 276-610; and
7 (f) a choice under section 276-615 covering the entity is in force
8 for the income year in which the time occurs.
- 9 (7) The modifications are as follows:
- 10 (a) section 8-1 (about amounts you can deduct) does not apply to
11 the *acquisition;
- 12 (b) Division 70 (about trading stock) does not apply in relation to
13 the asset in respect of:
- 14 (i) the income year in which the time occurs; and
15 (ii) any later income year in relation to which the entity is a
16 *AIV.

276-610 Covered assets

- 17
- 18 (1) An asset is covered by this section if it is any of the following:
- 19 (a) a *share in a company (including a share in a *foreign hybrid
20 company);
- 21 (b) a *non-share equity interest in a company;
- 22 (c) a unit in a unit trust;
- 23 (d) land (including an interest in land);
- 24 (e) a right or option to *acquire or *dispose of an asset of a kind
25 mentioned in paragraph (a), (b), (c) or (d).
- 26 (2) However, the asset is *not* covered by this section if it is any of the
27 following:
- 28 (a) a *Division 230 financial arrangement;
- 29 (b) a *debt interest.

276-615 AIV CGT choices

- 30
- 31 (1) The *operator of an entity that is an *AIV may make a choice under
32 this section that covers the AIV.
- 33 (2) The choice must be made in the *approved form.
- 34 (3) The choice can be made only:
-

EXPOSURE DRAFT

-
- 1 (a) if the entity became an *AIV in the 2018-19 income year or a
2 later income year (whether or not the entity existed before it
3 became an AIV)—on or before the latest of the following
4 days:
5 (i) the day it is required to lodge its *income tax return for
6 the income year in which it became an AIV;
7 (ii) if the Commissioner allows a later day for the AIV—
8 that later day; or
9 (b) otherwise—on or before the latest of the following days:
10 (i) the last day in the 3 month period starting on the day on
11 which this section commences;
12 (ii) the last day of the 2018-19 income year;
13 (iii) if the Commissioner allows a later day for the AIV—
14 that later day.
- 15 (4) The choice, once made, cannot be revoked.
- 16 (5) The choice is in force:
17 (a) in the circumstances mentioned in paragraph (3)(a)—for the
18 income year in which the entity became an *AIV (whether or
19 not the entity existed before it became an AIV) and later
20 income years; or
21 (b) in the circumstances mentioned in paragraph (3)(b)—for the
22 2018-19 income year and later income years.

23 **276-620 Consequences of not making choice—revenue account** 24 **treatment**

- 25 (1) This section applies if:
26 (a) the requirements in subsection 276-605(1) are met in relation
27 to a *CGT asset held by an *AIV, apart from the requirement
28 in paragraph 276-605(1)(e); and
29 (b) the CGT asset is not:
30 (i) land (including an interest in land); or
31 (ii) a right or option to *acquire or *dispose of land
32 (including an interest in land); and
33 (c) the AIV disposes of, ceases to own or otherwise realises the
34 asset; and
35 (d) disregarding this section:
36 (i) the net proceeds (if any) from the disposal, cessation or
37 realisation would not be reflected in an amount being
-

EXPOSURE DRAFT

-
- 1 included in the assessable income of the AIV (other
2 than under Part 3-1 or 3-3); and
- 3 (ii) the gain or profit (if any) on the disposal, cessation or
4 realisation would not be reflected in an amount being
5 included in the assessable income of the AIV (other
6 than under Part 3-1 or 3-3); and
- 7 (iii) the loss (if any) on the disposal, cessation or realisation
8 would not be reflected in an amount being deductible by
9 the AIV.
- 10 (2) For the purposes of this Act, treat the disposal, cessation of
11 ownership of or realisation of the asset in the same way as the
12 disposal, cessation of ownership of or realisation of a * revenue
13 asset.

EXPOSURE DRAFT

1 **Part 4—Withholding AIVs**

2 *Income Tax Assessment Act 1936*

3 **263 Subsection 128AF(1A)**

4 Omit “AMIT”, substitute “AIV”.

5 **264 Subsection 128AF(1A) (note)**

6 Omit “AMITs”, substitute “AIVs”.

7 *Income Tax Assessment Act 1997*

8 **265 Subdivision 840-M (heading)**

9 Repeal the heading, substitute:

10 **Subdivision 840-M—Investment vehicle withholding tax**

11 **266 Section 840-800**

12 After “a withholding MIT”, insert “or a withholding AIV”.

13 **267 Section 840-805 (heading)**

14 Repeal the heading, substitute:

15 **840-805 Liability for investment vehicle withholding tax**

16 **268 Subsection 840-805(1) (note 1)**

17 Repeal the note, substitute:

18 Note 1: The tax, which is called investment vehicle withholding tax, is
19 imposed by the *Income Tax (Investment Vehicle Withholding Tax) Act*
20 *2008* and the rate of the tax is set out in that Act.

21 **269 Subsection 840-805(1) (note 2)**

22 Omit “AMITs”, substitute “AIVs”.

23 **270 Subsection 840-805(2) (heading)**

24 Repeal the heading, substitute:

EXPOSURE DRAFT

Payments from withholding MITs or withholding AIVs

1
2 **271 Paragraph 840-805(2)(a)**

3 Repeal the paragraph, substitute:

- 4 (a) you are paid an amount, or an amount is applied or dealt with
5 as you direct:
6 (i) from a trust that is a *withholding MIT in relation to an
7 income year; or
8 (ii) from a *withholding AIV for an income year; and

9 **272 Paragraph 840-805(2)(c)**

10 Repeal the paragraph, substitute:

- 11 (c) in respect of the fund payment part, you are:
12 (i) if the fund payment part is paid, applied or dealt with
13 from a withholding MIT—a beneficiary (but not a
14 beneficiary in the capacity of a trustee of another trust);
15 or
16 (ii) if the fund payment part is paid, applied or dealt with
17 from a *withholding ACCIV—a *member of the
18 ACCIV (but not a member in the capacity of a trustee of
19 a trust); and

20 **273 Paragraph 840-805(3)(b)**

21 Repeal the paragraph, substitute:

- 22 (b) all or part of that amount (the *fund payment part*) is
23 reasonably attributable to a payment that is a *fund payment
24 in relation to an income year from:
25 (i) a trust that is a *withholding MIT in relation to that
26 year; or
27 (ii) a *withholding AIV for that year; and

28 **274 Paragraph 840-805(3)(c)**

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

31 **275 Paragraph 840-805(4)(a)**

32 After “a *withholding MIT”, insert “, a *withholding AIV”.

33 **276 Paragraph 840-805(4)(b)**

34 Repeal the paragraph, substitute:

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-
- 1 (b) all or part of that share (also the *fund payment part*) is
2 reasonably attributable to a payment that is a *fund payment
3 in relation to an income year made:
4 (i) from a trust that is a *withholding MIT in relation to that
5 year; or
6 (ii) from a *withholding AIV for that year; and

277 Paragraph 840-805(4)(c)

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

278 Subsection 840-805(4A)

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

279 Subsection 840-805(4D)

13 Repeal the subsection.
14

280 Before subsection 840-805(4E)

15 Insert:
16

17 *Taxed part of payment from withholding AIV to be disregarded*

281 Paragraph 840-805(4E)(a)

18 Omit “because of the operation of subsection (4D)”, substitute “that is
19 all or part of an amount paid, applied or dealt with by a withholding
20 AIV”.
21

282 Section 840-810 (heading)

22 Repeal the heading, substitute:
23

840-810 When investment vehicle withholding tax is payable

283 Subsection 840-810(1)

24 Omit “*Managed investment trust withholding tax”, substitute
25 “*Investment vehicle withholding tax”.
26
27

284 Subsection 840-810(2)

28 Omit “*managed investment trust withholding tax”, substitute
29 “*investment vehicle withholding tax”.
30

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285 Paragraph 840-810(3)(a)

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

286 Subsections 840-810(4) and 840-815(1)

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

287 Paragraph 840-815(2)(a)

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

Taxation Administration Act 1953

288 Subdivision 12-H in Schedule 1 (heading)

Repeal the heading, substitute:

Subdivision 12-H—Distributions of income of withholding MITs and withholding AIVs

289 Section 12-375 in Schedule 1

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

290 Section 12-375 in Schedule 1

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

291 After section 12-383 in Schedule 1

Insert:

12-384 Meaning of *withholding ACCIV*

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

- (a) the entity is an *ACCIV for the income year; and
- (b) in relation to each *sub-fund of the entity—a substantial proportion of the investment management activities carried out in relation to the sub-fund, in respect of all of the following assets of the entity that are allocated to the sub-fund, are carried out in Australia throughout the income year:

EXPOSURE DRAFT

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

8 **292 Section 12-385 in Schedule 1 (heading)**

9 Repeal the heading, substitute:

10 **12-385 Withholding by withholding MITs and withholding ACCIVs**

11 **293 Subsection 12-385(1) in Schedule 1**

12 After “an income year”, insert “, or an entity that is a *withholding
13 ACCIV in relation to an income year.”.

14 **294 Subsection 12-385(1) in Schedule 1 (note 2)**

15 After “trustee”, insert “or entity making the payment”.

16 **295 Subsection 12-385(2) in Schedule 1**

17 After “trustee”, insert “or entity making the payment”.

18 **296 Subsection 12-385(5) in Schedule 1**

19 Repeal the subsection, substitute:

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

21 (a) from a *withholding MIT; or

22 (b) from a *withholding AIV;

23 to the extent that no *investment vehicle withholding tax is payable
24 in respect of the payment or an amount reasonably attributable to
25 the payment.

26 **297 Subsection 12-390(1) in Schedule 1 (note 1)**

27 Repeal the note, substitute:

28 Note 1: The covered part referred to in paragraph (1)(a) is attributable to a
29 fund payment made by a withholding MIT or withholding ACCIV, or
30 2 or more fund payments made by one or more withholding MITs or
31 withholding ACCIVs. (Any such withholding MIT may be an AMIT.)

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298 Subsection 12-390(4) in Schedule 1

After “a *withholding MIT”, insert “, a *withholding AIV”.

299 Subsection 12-390(4) in Schedule 1 (note 1)

Repeal the note, substitute:

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

300 Paragraph 12-390(10)(b) in Schedule 1

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

301 Subsection 12-395(1) in Schedule 1 (heading)

Repeal the heading, substitute:

Withholding MITs, withholding ACCIVs and custodians

302 Subsection 12-395(1) in Schedule 1

After “*withholding MIT”, insert “, *withholding ACCIV”.

303 Paragraph 12-395(3)(b) in Schedule 1

After “*withholding MIT”, insert “or *withholding ACCIV”.

304 Subsection 12-395(4) in Schedule 1

After “*withholding MIT”, insert “, *withholding ACCIV”.

305 Paragraph 12-395(6)(b) in Schedule 1

After “*withholding MIT”, insert “or *withholding ACCIV”.

306 At the end of section 12-395 in Schedule 1

Add:

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

307 Division 12A in Schedule 1 (heading)

Repeal the heading, substitute:

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1 **Division 12A—Distributions by AIVs (including deemed** 2 **payments)**

3 **308 Section 12A-1 in Schedule 1**

4 Omit “a withholding MIT that is an AMIT gives a member an AMMA
5 statement, the trustee”, substitute “a withholding AIV gives a member
6 an AIVMA statement, the AIV (or, if the AIV is an AMIT, the trustee
7 of the AMIT)”.

8 **309 Section 12A-1 in Schedule 1**

9 Omit “AMIT trustees”, substitute “AIVs (or AMIT trustees)”.

10 **310 Subdivision 12A-A in Schedule 1 (heading)**

11 Repeal the heading, substitute:

12 **Subdivision 12A-A—Distributions by AIVs relating to** 13 **dividend, interest and royalties**

14 **311 Section 12A-5 in Schedule 1**

15 Omit “AMIT trustees”, substitute “AIVs (or AMIT trustees)”.

16 **312 Subsection 12A-10(1) in Schedule 1**

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

19 **313 Subsection 12A-10(1) in Schedule 1 (note)**

20 Before “trustee”, insert “AIV or”.

21 **314 Paragraph 12A-10(2)(b) in Schedule 1**

22 Omit “*AMIT”, substitute “*AIV”.

23 **315 Paragraph 12A-10(3)(b) in Schedule 1**

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

26 **316 Subsection 12A-10(3) in Schedule 1 (note)**

27 Repeal the note, substitute:

28 Note: Either or both of the AIV concerned (or, if the AIV is an AMIT, the
29 trustee of the AMIT) and the custodian may have to pay the

EXPOSURE DRAFT

1 Commissioner an amount in respect of the deemed payment (see
2 Subdivision 12A-C).

3 **317 Section 12A-15 in Schedule 1 (heading)**

4 Repeal the heading, substitute:

5 **12A-15 Dividend, interest or royalty payments relating to AIV—**
6 **requirement to give notice or make information available**

7 **318 Subsection 12A-15(1) in Schedule 1 (heading)**

8 Repeal the heading, substitute:

9 *AIVs and custodians*

10 **319 Subsection 12A-15(1) in Schedule 1**

11 Omit “An entity that is an *AMIT or a *custodian must comply with
12 subsection (2)”, substitute “Subsection (2) applies in relation to an
13 entity that is an *AIV or a *custodian”.

14 **320 Subparagraph 12A-15(1)(c)(ii) in Schedule 1**

15 Omit “*pre-AMMA actual payment”, substitute “*pre-AIVMA actual
16 payment”.

17 **321 Subsection 12A-15(2) in Schedule 1**

18 Omit “The entity”, substitute “The *operator of the *AIV or the
19 *custodian (as the case requires)”.

20 **322 Paragraph 12A-15(3)(b) in Schedule 1**

21 Omit “*AMIT”, substitute “*AIV”.

22 **323 Subsection 12A-15(4) in Schedule 1**

23 Omit “An entity that is not an *AMIT or a *custodian must comply with
24 subsection (5)”, substitute “Subsection (5) applies in relation to an
25 entity that is not an *AIV or a *custodian”.

26 **324 Subparagraph 12A-15(4)(e)(ii) in Schedule 1**

27 Omit “*pre-AMMA actual payment”, substitute “*pre-AIVMA actual
28 payment”.

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1 **325 Paragraph 12A-15(6)(b) in Schedule 1**

2 Omit “*AMIT”, substitute “*AIV”.

3 **326 Section 12A-25 in Schedule 1**

4 Repeal the section, substitute:

5 **12A-25 Meaning of *AIV DIR payment***

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

- 7 (a) an *AIV dividend payment;
8 (b) an *AIV interest payment;
9 (c) an *AIV royalty payment.

10 **327 Section 12A-30 in Schedule 1 (heading)**

11 Repeal the heading, substitute:

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

13 **328 Subsection 12A-30(1) in Schedule 1**

14 Omit “a trust that is an *AMIT”, substitute “an entity that is an *AIV”.

15 **329 Subsection 12A-30(2) in Schedule 1**

16 Omit “the *AMIT dividend payments that the trustee of the *AMIT
17 makes”, substitute “the *AIV dividend payments that the *AIV (or, if
18 the AIV is an *AMIT, the trustee of the AMIT) makes”.

19 **330 Subsection 12A-30(3) in Schedule 1**

20 Omit “*AMIT”, substitute “*AIV”.

21 **331 Subsection 12A-30(4) in Schedule 1**

22 Omit “the trustee of a trust makes in relation to an income year is an
23 *AMIT dividend payment*”, substitute “the *AIV (or, if the AIV is an
24 *AMIT, the trustee of the AMIT) makes in relation to an income year is
25 an *AIV dividend payment*”.

26 **332 Subsection 12A-30(4) in Schedule 1**

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

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1 **333 Subsection 12A-30(4) in Schedule 1 (note)**

2 Before “trustee”, insert “AIV or”.

3 **334 Subsection 12A-30(4) in Schedule 1 (method statement,**
4 **step 2)**

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

6 **335 Subsection 12A-30(4) in Schedule 1 (method statement,**
7 **step 2, paragraphs (b) and (c))**

8 Omit “AMIT dividend payments”, substitute “AIV dividend payments”.

9 **336 Subsection 12A-30(5) in Schedule 1**

10 Omit “*AMIT dividend payments are to be worked out on the basis of
11 the trustee’s knowledge”, substitute “*AIV dividend payments are to be
12 worked out on the basis of the knowledge of the *operator of the *AIV”.

13 **337 Subsection 12A-30(7) in Schedule 1**

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

15 **338 Paragraph 12A-30(7)(a) in Schedule 1**

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

18 **339 Paragraph 12A-30(7)(c) in Schedule 1**

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

20 **340 Section 12A-35 in Schedule 1 (heading)**

21 Repeal the heading, substitute:

22 **12A-35 Meaning of *AIV interest payment***

23 **341 Subsection 12A-35(1) in Schedule 1**

24 Omit “a trust that is an *AMIT”, substitute “an entity that is an *AIV”.

25 **342 Subsection 12A-35(2) in Schedule 1**

26 Omit “the *AMIT interest payments that the trustee of the *AMIT
27 makes”, substitute “the *AIV interest payments that the *AIV (or, if the
28 AIV is an *AMIT, the trustee of the AMIT) makes”.

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1 **343 Subsection 12A-35(3) in Schedule 1**

2 Omit “*AMIT”, substitute “*AIV”.

3 **344 Subsection 12A-35(4) in Schedule 1**

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

5 **345 Paragraph 12A-35(4)(a) in Schedule 1**

6 Repeal the paragraph, substitute:

7 (a) treat references in those subsections to AIV dividend
8 payments as instead being references to AIV interest
9 payments; and

10 **346 Section 12A-40 in Schedule 1 (heading)**

11 Repeal the heading, substitute:

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

13 **347 Subsection 12A-40(1) in Schedule 1**

14 Omit “a trust that is an *AMIT”, substitute “an entity that is an *AIV”.

15 **348 Subsection 12A-40(2) in Schedule 1**

16 Omit “the *AMIT royalty payments that the trustee of the *AMIT
17 makes”, substitute “the *AIV royalty payments that the *AIV (or, if the
18 AIV is an *AMIT, the trustee of the AMIT) makes”.

19 **349 Subsection 12A-40(3) in Schedule 1**

20 Omit “*AMIT”, substitute “*AIV”.

21 **350 Subsection 12A-40(4) in Schedule 1**

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

23 **351 Paragraph 12A-40(4)(a) in Schedule 1**

24 Repeal the paragraph, substitute:

25 (a) treat references in those subsections to AIV dividend
26 payments as instead being references to AIV royalty
27 payments; and

28 **352 Subdivision 12A-B in Schedule 1 (heading)**

29 Repeal the heading, substitute:

EXPOSURE DRAFT

1 Subdivision 12A-B—Distributions by AIVs relating to 2 Subdivision 12-H fund payments

3 353 Section 12A-100 in Schedule 1

4 After “AMIT trustees”, insert “, ACCIVs”.

5 354 Subsection 12A-105(1) in Schedule 1

6 After “trustee”, insert “or *ACCIV”.

7 355 Subsection 12A-105(1) in Schedule 1 (note)

8 After “trustee”, insert “or ACCIV”.

9 356 Paragraph 12A-105(2)(b) in Schedule 1

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

12 357 Subsection 12A-105(2) (note)

13 Repeal the note, substitute:

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

17 358 Paragraph 12A-105(3)(b) in Schedule 1

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

20 359 Section 12A-110 in Schedule 1 (heading)

21 Repeal the heading, substitute:

22 360 Meaning of *fund payment*—AIVs

23 361 Subsection 12A-110(1) in Schedule 1

24 Omit “a trust that is an *AMIT”, substitute “an entity that is an *AIV”.

25 362 Subsection 12A-110(2) in Schedule 1

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

28 363 Paragraph 12A-110(3)(a) in Schedule 1

29 Omit “*AMIT”, substitute “*AIV”.

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1 **364 Paragraph 12A-110(3)(b) in Schedule 1**

2 Omit “AMIT”, substitute “AIV”.

3 **365 Subsection 12A-110(5) in Schedule 1**

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

6 **366 Subsection 12A-110(5) in Schedule 1 (note)**

7 Before “trustee”, insert “AIV or”.

8 **367 Subsection 12A-110(5) in Schedule 1 (method statement,
9 step 2)**

10 Omit “trust”, substitute “AIV”.

11 **368 Subsection 12A-110(5) in Schedule 1 (method statement,
12 step 3, paragraphs (c) and (d))**

13 Before “trustee”, insert “AIV or”.

14 **369 Subsection 12A-110(6) in Schedule 1**

15 Omit “the trustee’s knowledge”, substitute “the knowledge of the
16 *operator of the *AIV”.

17 **370 Paragraph 12A-110(8)(a) in Schedule 1**

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

20 **371 Paragraph 12A-110(10)(a) in Schedule 1**

21 Omit “*AMIT”, substitute “*AIV”.

22 **372 Paragraph 12A-110(10)(a) in Schedule 1**

23 Omit “AMMA statements”, substitute “AIVMA statements”.

24 **373 Paragraph 12A-110(10)(b) in Schedule 1**

25 Omit “the trustee” (first occurring), substitute “the *AIV (or, if the AIV
26 is an *AMIT, the trustee of the AMIT)”.

27 **374 Paragraph 12A-110(10)(b) in Schedule 1**

28 Before “trustee” (second occurring), insert “AIV or”.

EXPOSURE DRAFT

1 **375 Subdivision 12A-C in Schedule 1 (heading)**

2 Repeal the heading, substitute:

3 **Subdivision 12A-C—Deemed payments by AIVs etc.**

4 **376 Section 12A-200 in Schedule 1**

5 Omit “a withholding MIT that is an AMIT gives a member an AMMA
6 statement, the trustee”, substitute “a withholding AIV gives a member
7 an AIVMA statement, the AIV (or, if the AIV is an AMIT, the trustee
8 of the AMIT)”.

9 **377 Section 12A-205 in Schedule 1 (heading)**

10 Repeal the heading, substitute:

11 **378 Issue of AIVMA statement etc. deemed to be payment**

12 **379 Paragraph 12A-205(1)(a) in Schedule 1**

13 Omit “*withholding MIT”, substitute “*withholding AIV”.

14 **380 Paragraphs 12A-205(1)(b) and (c) in Schedule 1**

15 Repeal the paragraphs, substitute:

- 16 (b) the withholding AIV is an *AIV for the income year; and
17 (c) the AIV gives the first recipient an *AIVMA statement for
18 the income year.

19 **381 Paragraph 12A-205(2)(a) in Schedule 1**

20 Repeal the paragraph, substitute:

- 21 (a) treat the *AIV (or, if the AIV is an *AMIT, the trustee of the
22 AMIT) as having made a payment (the *first deemed*
23 *payment*) of an amount to the first recipient at the time the
24 AIV gave the first recipient the *AIVMA statement; and

25 **382 Subparagraph 12A-205(2)(b)(i) in Schedule 1**

26 Omit “AMIT”, substitute “AIV”.

27 **383 Subparagraph 12A-205(2)(b)(ii) in Schedule 1**

28 Omit “*pre-AMMA actual payments”, substitute “*pre-AIVMA actual
29 payments”.

EXPOSURE DRAFT

1 **384 Subparagraph 12A-205(2)(b)(ii) in Schedule 1**

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

4 **385 Subparagraph 12A-205(2)(b)(iii) in Schedule 1**

5 Omit “*AMIT DIR payment”, substitute “*AIV DIR payment”.

6 **386 Subparagraph 12A-205(2)(b)(iii) in Schedule 1**

7 Omit “pre-AMMA actual payment”, substitute “pre-AIVMA actual
8 payment”.

9 **387 Subparagraph 12A-205(2)(b)(iv) in Schedule 1**

10 Omit “AMIT DIR payment”, substitute “AIV DIR payment”.

11 **388 Subsection 12A-205(3) in Schedule 1**

12 Omit “*AMMA statement”, substitute “*AIVMA statement”.

13 **389 After section 12A-205 in Schedule 1**

14 Insert:

15 **12A-207 Meaning of *withholding AIV***

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

- 17 (a) the entity is an *AMIT that is a *withholding MIT in relation
18 to the income year; or
19 (b) the entity is a *withholding ACCIV in relation to the income
20 year.

21 **390 Section 12A-210 in Schedule 1 (heading)**

22 Repeal the heading, substitute:

23 **391 Post-AIVMA actual payment and pre-AIVMA actual payment
24 in respect of deemed payment**

25 **392 Subsection 12A-210(1) in Schedule 1**

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

28 **393 Paragraph 12A-210(1)(a) in Schedule 1**

29 Omit “*AMIT”, substitute “*AIV”.

EXPOSURE DRAFT

1 **394 Subsection 12A-210(2) in Schedule 1**

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

4 **395 Paragraph 12A-210(2)(a) in Schedule 1**

5 Omit “*AMIT”, substitute “*AIV”.

6 **396 Section 12A-215 in Schedule 1 (heading)**

7 Repeal the heading, substitute:

8 **397 AIV payment to the Commissioner in respect of deemed**
9 **payments to offshore entities etc.**

10 **398 Subsection 12A-215(1) in Schedule 1**

11 Omit “A trustee of a trust that is an *AMIT for an income year”,
12 substitute “An entity that is an *AIV for an income year (or, if the AIV
13 is an *AMIT, the trustee of the AMIT)”.

14 **399 Paragraph 12A-215(1)(a) in Schedule 1**

15 Omit “the trust is a *withholding MIT”, substitute “the entity is a
16 *withholding AIV”.

17 **400 Paragraph 12A-215(1)(b) in Schedule 1**

18 Before “trustee”, insert “entity or”.

19 **401 Subparagraph 12A-215(1)(c)(ii) in Schedule 1**

20 Omit “*AMIT DIR payment”, substitute “*AIV DIR payment”.

21 **402 Subsection 12A-215(1) in Schedule 1 (note 2)**

22 Before “trustee”, insert “entity or”.

23 **403 Paragraphs 12A-215(2)(b) and (3)(c) in Schedule 1**

24 Omit “*AMIT DIR payment”, substitute “*AIV DIR payment”.

25 **404 Subparagraph 12A-215(3)(c)(i) in Schedule 1**

26 Omit “the trust had been a company, and it had paid it as a dividend”,
27 substitute “it were the payment of a dividend, and (if the *AIV is an
28 *AMIT) the AIV were the company that paid the dividend”.

EXPOSURE DRAFT

1 **405 Paragraph 12A-215(3)(d) in Schedule 1**

2 Omit “AMIT DIR payment”, substitute “AIV DIR payment”.

3 **406 Subsections 12A-215(4) and (5) in Schedule 1**

4 Before “trustee” (wherever occurring), insert “entity or”.

5 **407 Paragraph 12A-220(1)(a) in Schedule 1**

6 Omit “the trustee of a trust that was an *AMIT for an income year and
7 was a *withholding MIT in relation to the income year”, substitute “an
8 entity that was an *AIV for an income year and was a *withholding AIV
9 in relation to the income year (or, if the AIV is an *AMIT, the trustee of
10 the AMIT)”.

11 **408 Subparagraph 12A-220(1)(a)(ii) in Schedule 1**

12 Omit “*AMIT DIR payment”, substitute “*AIV DIR payment”.

13 **409 Subparagraphs 12A-220(1)(d)(ii) and (e)(ii) in Schedule 1**

14 Omit “AMIT DIR payment”, substitute “AIV DIR payment”.

15 **410 Subsection 12A-220(1) in Schedule 1 (note 2)**

16 Before “trustee”, insert “AIV or”.

17 **411 Paragraphs 12A-220(2)(b) and (3)(c) in Schedule 1**

18 Omit “*AMIT DIR payment”, substitute “*AIV DIR payment”.

19 **412 Paragraph 12A-220(3)(d) in Schedule 1**

20 Omit “AMIT DIR payment”, substitute “AIV DIR payment”.

EXPOSURE DRAFT

1 **Part 5—Non-arm’s length income**

2 *Income Tax Assessment Act 1997*

3 **413 Section 275-600**

4 After “managed investment trust”, insert “(other than an AMIT)”.

5 **414 Subsection 275-605(1)**

6 Omit “Subsections (2), (3) and (4)”, substitute “Subsections (2) and
7 (4)”.

8 **415 Subsection 275-605(3)**

9 Repeal the subsection.

10 **416 Subsection 275-605(4)**

11 Omit “If the trust is *not* an *AMIT for the income year, reduce”,
12 substitute “Reduce”.

13 **417 Paragraph 275-605(5)(a)**

14 Repeal the paragraph, substitute:

- 15 (a) are reflected in the trust’s *net income for the income year
16 (disregarding subsection (4)); and

17 **418 Paragraph 275-615(1)(a)**

18 Repeal the paragraph, substitute:

- 19 (a) the amount of non-arm’s length income for the managed
20 investment trust in relation to the income year is reflected in
21 its *net income for the income year; and

22 **419 After paragraph 275-615(1)(b)**

23 Insert:

- 24 (ba) the managed investment trust is *not* an *AMIT for the income
25 year; and

26 **420 At the end of subsection 275-615(1)**

27 Add:

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Note: For the Commissioner’s power to make a determination if the managed investment trust is an AMIT (and therefore an AIV), see section 276-443.

421 Section 276-1

After “Subdivision G)”, insert “, and certain amounts reflecting non-arm’s length income (see Subdivision GA)”.

422 After Subdivision 276-G

Insert:

Subdivision 276-GA—Modification for non-arm’s length income

Guide to Subdivision 276-GA

276-437 What this Subdivision is about

An AIV for an income year (or, if the AIV is an AMIT, the trustee of the AMIT) is taxed on amounts related to the AIV’s non-arm’s length income for the income year.

Table of sections

Operative provisions

276-439	AIV or trustee taxed on amount of non-arm’s length income of AIV
276-441	Non-arm’s length income
276-443	Commissioner’s determination in relation to amount of non-arm’s length income

Operative provisions

276-439 AIV or trustee taxed on amount of non-arm’s length income of AIV

- (1) Subsections (2), (3) and (4) apply if the Commissioner has made a determination under section 276-443 that specifies an amount of *non-arm’s length income for a specified *AIV in relation to a specified income year.

EXPOSURE DRAFT

Excess amount to be taxed

- 1
- 2 (2) The *AIV (or, if the AIV is an *AMIT, the trustee of the AMIT) is
3 liable to pay income tax at the rate declared by the Parliament on
4 the amount mentioned in subsection (5).

5 Note: The rate is set out in subsection 12(10A) of the *Income Tax Rates Act*
6 *1986*.

Excess amount to be adjusted

- 7
- 8 (3) Treat the *AIV as having an *over in the income year in which the
9 determination is made, for the specified income year, of a character
10 relating to *ordinary income, or *statutory income, from an
11 *Australian source, equal to the amount mentioned in
12 subsection (5).
- 13 (4) However, if the *AIV already has such an over in the income year
14 in which the determination is made, for the specified income year:
15 (a) do not apply subsection (3); and
16 (b) increase the amount of that over by the amount mentioned in
17 subsection (5).

Excess amount

- 18
- 19 (5) The amount is the excess mentioned in paragraph 276-441(1)(b) in
20 respect of the *non-arm's length income, reduced by deductions (if
21 any) that:
22 (a) are reflected in the amounts of its *AIV components for the
23 income year (disregarding subsection (3)); and
24 (b) are attributable only to the amount of non-arm's length
25 income.

276-441 Non-arm's length income

- 26
- 27 (1) An amount of *ordinary income or *statutory income is *non-arm's*
28 *length income* of an *AIV if:
29 (a) it is derived from a *scheme the parties to which were not
30 dealing with each other at *arm's length in relation to the
31 scheme; and
32 (b) that amount exceeds the amount that the entity might have
33 been expected to derive if those parties had been dealing with
34 each other at arm's length in relation to the scheme; and
35 (c) the amount is none of the following:
-

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- 1 (i) a distribution from a *corporate tax entity;
- 2 (ii) a distribution from a trust that is *not* a party to the
- 3 scheme mentioned in paragraph (a);
- 4 (iii) a *return covered by subsection (2).
- 5 (2) This subsection covers a *return that an entity pays or provides on
- 6 a *debt interest, if the rate (expressed on an annual basis) of the
- 7 return does not exceed the greater of:
- 8 (a) the *benchmark rate of return for the interest; and
- 9 (b) the *base interest rate for the day on which the return is paid
- 10 or provided, plus 3 percentage points.
- 11 (3) Subsection (4) applies if:
- 12 (a) an amount would be *non-arm's length income of the *AIV
- 13 (disregarding that subsection); and
- 14 (b) the amount is a distribution from a trust, or a share of the *net
- 15 income of a trust, if the trust is a party to the scheme
- 16 mentioned in paragraph (1)(a).
- 17 (4) The amount is *non-arm's length income of the *AIV only to the
- 18 extent that the distribution or share of *net income is attributable to
- 19 non-arm's length income of the trust mentioned in paragraph (3)(b)
- 20 (on that assumption that the trust were an AIV) because of another
- 21 operation of this section.
- 22 (5) Subsection (6) applies if:
- 23 (a) an amount (the *first amount*) of *ordinary income or
- 24 *statutory income of the *AIV that would be *non-arm's
- 25 length income of the AIV (disregarding that subsection) is:
- 26 (i) a distribution from a trust that is a party to the scheme
- 27 mentioned in paragraph (1)(a); or
- 28 (ii) a share of the *net income of a trust that is a party to that
- 29 scheme; and
- 30 (b) another amount (the *second amount*) of ordinary income or
- 31 statutory income of the AIV is:
- 32 (i) a distribution from another trust (whether or not the
- 33 other trust is a party to that scheme); or
- 34 (ii) a share of the net income of another trust (whether or
- 35 not the other trust is a party to that scheme); and
- 36 (c) it is reasonable to conclude that the second amount would
- 37 have been higher but for the first amount.
-

EXPOSURE DRAFT

-
- 1 (6) The first amount is *not* *non-arm's length income of the *AIV to
2 the extent that the second amount would have been higher as
3 mentioned in paragraph (5)(c).

4 **276-443 Commissioner's determination in relation to amount of**
5 **non-arm's length income**

- 6 (1) The Commissioner may make a determination in writing that
7 specifies an amount of *non-arm's length income for a specified
8 *AIV in relation to a specified income year if the Commissioner is
9 satisfied that:
- 10 (a) the amount of non-arm's length income for the AIV in
11 relation to the income year is reflected in one or more of its
12 *AIV components for the income year; and
 - 13 (b) the AIV is a party to the *scheme mentioned in
14 paragraph 276-441(1)(a) at a time in the income year in
15 which the amount is derived; and
 - 16 (c) at least one of the parties to that scheme is *not* an AIV in
17 relation to the income year.

18 *Determination does not form part of assessment*

- 19 (2) A determination under subsection (1) does not form part of an
20 assessment.

21 *Notice by Commissioner of determination*

- 22 (3) If the Commissioner makes a determination under subsection (1),
23 the Commissioner must give a copy of the determination to the
24 *AIV concerned. The notice may be included in a notice of
25 assessment.

26 *Evidence of determination*

- 27 (4) The production of:
- 28 (a) a notice of a determination; or
 - 29 (b) a document signed by the Commissioner, a Second
30 Commissioner or a Deputy Commissioner purporting to be a
31 copy of a determination;
- 32 is:
- 33 (c) conclusive evidence of the due making of the determination;
34 and

EXPOSURE DRAFT

1 (d) conclusive evidence that the determination is correct (except
2 in proceedings under Part IVC of the *Taxation*
3 *Administration Act 1953* on an appeal or review relating to
4 the determination).

5 *Objections*

6 (5) If an entity to whom a determination relates is dissatisfied with the
7 determination, the entity may object against it in the manner set out
8 in Part IVC of the *Taxation Administration Act 1953*.

EXPOSURE DRAFT

1 **Part 6—Corporate collective investment vehicles**

2 *Income Tax Assessment Act 1936*

3 **423 Subsection 6(1)**

4 Insert:

5 *corporate collective investment vehicle* has the same meaning as in
6 the *Corporations Act 2001*.

7 **424 After section 95AAD**

8 Insert:

9 **95AAE Division does not apply in relation to depositary**

10 This Division does not apply in relation to a trust estate (if any)
11 constituted by the relationship between a corporate collective
12 investment vehicle and its depositary (within the meaning of the
13 *Corporations Act 2001*).

14 **425 At the end of subsection 128B(3)**

15 Add:

16 ; or (n) income derived during a year of income by a person who was
17 a member of a corporate collective investment vehicle
18 throughout that year of income.

19 **426 Section 128D**

20 Omit “or (m)”, substitute “, (m) or (n)”.

21 *Income Tax Assessment Act 1997*

22 **427 After paragraph 202-15(b)**

23 Insert:

24 (ba) it is not a *corporate collective investment vehicle; and

25 **428 Subsection 276-80(5)**

26 Omit “the effects mentioned in subsection (6) for the *member”,
27 substitute “the *member’s entitlement to the *tax offset”.

EXPOSURE DRAFT

1 **429 Subsection 276-80(6)**

2 Repeal the subsection.

3 **430 Subsection 703-20(2) (after table item 3)**

4 Insert:

4 A company The company is a *corporate collective investment vehicle at the time

5 *Income Tax Rates Act 1986*

6 **431 Subsection 3(1)**

7 Insert:

8 *corporate collective investment vehicle* has the same meaning as in
9 the *Corporations Act 2001*.

10 **432 Paragraph 23(2)(a)**

11 After “entity”, insert “(other than a corporate collective investment
12 vehicle)”.

13 *Taxation Administration Act 1953*

14 **433 Subsection 288-115(3) in Schedule 1 (at the end of the
15 table)**

16 Add:

3 if the *under or *over resulted 25% of the under or 10% of the under or
from a failure by the operator over over
of the *AIV or the operator’s
agent to take reasonable care
to comply with a *taxation law
(other than the *Excise Acts)

17 **434 At the end of subsection 288-115(4) in Schedule 1**

18 Add:

19 ; and (c) if the penalty specified under column 3 of item 3 of the table
20 in that subsection is less than 20 penalty units—the amount
21 of the penalty is 20 penalty units.

22 **435 Subsection 288-115(7) in Schedule 1**

23 Repeal the subsection, substitute:

EXPOSURE DRAFT

-
- 1 (7) If more than one item in the table in subsection (3) applies:
 - 2 (a) if item 1 is one of those items—use item 1 and no other item;
 - 3 or
 - 4 (b) otherwise—use item 2 and not item 3.

EXPOSURE DRAFT

Part 7—Consequential amendments

Income Tax Assessment Act 1936

436 Subsection 6(1) (after paragraph (f) of the definition of *dividend*)

Insert:

; or (g) any franked part or unfranked part of a distribution made by an ACCIV to any of its members, except to the extent that the distribution is attributable to income of the ACCIV that:

- (i) is a distribution made to the ACCIV, or amount credited to the ACCIV, of a kind mentioned in paragraph (a) or (b); and
- (ii) is not anything of a kind mentioned in paragraph (d), (e) or (f).

437 Subsection 170(10AB)

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

438 Paragraph 170(10AB)(a)

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

439 Paragraphs 251S(1)(d) to (f)

Omit “the trustee of an AMIT”, substitute “an AIV, or the trustee of an AMIT,”.

440 Subsection 255(2A)

After “withholding MITs”, insert “and withholding AIVs”.

Income Tax Assessment Act 1997

441 Section 11-55 (table item headed “foreign aspects of income taxation”)

Omit:

managed investment trust withholding tax, amount
subject to 840-815

substitute:

investment vehicle withholding tax, amount subject to ...

EXPOSURE DRAFT

840-815

1 **442 Section 13-1 (after table item headed “approved deposit**
2 **funds (ADFs)”**

3 Insert:

attribution investment vehicles

non-resident beneficiary 276-110

4 **443 Section 13-1 (table item headed “attribution managed**
5 **investment trusts”)**

6 Repeal the item.

7 **444 Section 67-23 (table item 14A, column headed “Subject**
8 **matter”)**

9 Omit “attribution managed investment trusts”, substitute “attribution
10 investment vehicles”.

11 **445 Section 112-46**

12 Repeal the section, substitute:

13 **112-46 Annual cost base adjustment for member’s share, unit or**
14 **interest in AIV**

15

Annual cost base adjustment for member’s share, unit or interest in AIV

Item	In this situation:	Element affected:	See section:
1	Annual cost base adjustment for member’s share, unit or interest in AIV	The total cost base and reduced cost base	104-605

16 ***International Tax Agreements Act 1953***

17 **446 After subsection 3(2A)**

18 Insert:

19 (2B) A reference in an agreement to income from shares, or to income
20 from other rights participating in profits, does not include a
21 reference to an amount of a kind mentioned in paragraph (g) of the
22 definition of *dividend* in subsection 6(1) of the *Income Tax*
23 *Assessment Act 1936*.

81

EXPOSURE DRAFT

1 *Taxation Administration Act 1953*

2 **447 Subsection 10-5(1) in Schedule 1 (table item 25, column** 3 **headed “Withholding payment”)**

4 After “withholding MIT”, insert “or a withholding ACCIV”.

5 **448 Subsection 12-5(2) in Schedule 1 (table item 1AA, column** 6 **headed “Which is about:”)**

7 After “*withholding MITs”, insert “or *withholding ACCIVs”.

8 **449 Subsection 15-15(1) in Schedule 1 (note 4)**

9 Omit “withholding MIT income”, substitute “income of withholding
10 MITs and withholding AIVs”.

11 **450 Subsection 16-153(4) in Schedule 1**

12 Omit “(the *paying trust*) in relation to an income year of that trust”,
13 substitute “or *withholding ACCIV in relation to an income year of that
14 withholding MIT or withholding ACCIV”.

15 **451 Subsection 16-153(4) in Schedule 1 (note)**

16 After “withholding MIT”, insert “or withholding ACCIV”.

17 **452 Paragraph 16-153(4A)(a) in Schedule 1**

18 After “*withholding MIT”, insert “or *withholding ACCIV”.

19 **453 Subsection 16-157(1) in Schedule 1**

20 Omit “(the *paying trust*) in relation to an income year of that trust”,
21 substitute “or *withholding ACCIV in relation to an income year of that
22 withholding MIT or withholding ACCIV”.

23 **454 Subsection 16-157(1) in Schedule 1 (note)**

24 After “withholding MIT”, insert “or withholding ACCIV”.

25 **455 Subparagraph 16-157(2)(c)(i) in Schedule 1**

26 After “*withholding MIT”, insert “or *withholding ACCIV”.

27 **456 Paragraph 16-170(1AA)(d) in Schedule 1**

28 After “*withholding MIT”, insert “or *withholding ACCIV”.

EXPOSURE DRAFT

-
- 1 **457 Paragraph 16-195(1)(c) in Schedule 1**
2 Omit “withholding MIT income”, substitute “income of withholding
3 MITs and withholding AIVs”.
- 4 **458 Subsection 18-10(1) in Schedule 1**
5 Omit “withholding MIT income”, substitute “income of withholding
6 MITs and withholding AIVs”.
- 7 **459 Subparagraph 18-30(1)(a)(ii) in Schedule 1**
8 Omit “*AMIT DIR payment”, substitute “*AIV DIR payment”.
- 9 **460 Paragraph 18-30(1)(c) in Schedule 1**
10 Omit “AMIT DIR payment”, substitute “AIV DIR payment”.
- 11 **461 Subsections 18-65(1A) and 18-70(1A) in Schedule 1**
12 Omit “AMITs”, substitute “AIVs”.

EXPOSURE DRAFT

1 **Part 8—Application and transitional provisions etc.**

2 **462 Application provision**

3 The amendments made by this Schedule apply to assessments for
4 income years starting on or after 1 July 2018.

5 ***Income Tax (Transitional Provisions) Act 1997***

6 **463 Subsection 275-605(2)**

7 Omit “Subsections 275-605(2), (3) and (4)”, substitute
8 “Subsections 275-605(2) and (4)”.

9 **464 At the end of Subdivision 276-A**

10 Add:

11 **276-10 Application of Division 276 as amended to provide for AIVs**

12 (1) Division 276 of the *Income Tax Assessment Act 1997* as amended
13 by Schedule # to the *Treasury Laws Amendment (Corporate*
14 *Collective Investment Vehicle) Act 2017* (the **amending Act**)
15 applies as set out in item X of that Schedule.

16 (2) Despite subsection (1), a choice made under section 276-20 of the
17 *Income Tax Assessment Act 1997* before the repeal of that section
18 by the amending Act continues in effect after that repeal as if the
19 choice had been made under section 276-48 of that Act as amended
20 by the amending Act.

EXPOSURE DRAFT

1 **Part 9—Definitions**

2 *Income Tax Assessment Act 1936*

3 **465 Subsection 6(1)**

4 Insert:

5 *ACCIV* has the same meaning as in the *Income Tax Assessment Act*
6 *1997*.

7 *AIV* (short for *attribution investment vehicle*) has the same
8 meaning as in the *Income Tax Assessment Act 1997*.

9 **466 Subsection 6(1) (paragraph (j) of the definition of** 10 **assessment)**

11 Omit “AMIT trustee” (wherever occurring), substitute “AIV, or AMIT
12 trustee,”.

13 *Income Tax Assessment Act 1997*

14 **467 Subsection 995-1(1)**

15 Insert:

16 *ACCIV*: see *attribution corporate collective investment vehicle*.

17 *AIV*: see *attribution investment vehicle*.

18 *AIV component*, of a particular character, has the meaning given
19 by section 276-260.

20 *AIV component deficit*, of a particular character, has the meaning
21 given by section 276-320.

22 *AIV cost base increase amount* has the meaning given by
23 section 104-620.

24 *AIV cost base net amount* has the meaning given by
25 section 104-610.

26 *AIV cost base reduction amount* has the meaning given by
27 section 104-615.

EXPOSURE DRAFT

1 *AIV DIR payment* has the meaning given by section 12A-25 in
2 Schedule 1 to the *Taxation Administration Act 1953*.

3 *AIV dividend payment* has the meaning given by section 12A-30
4 in Schedule 1 to the *Taxation Administration Act 1953*.

5 *AIV interest payment* has the meaning given by section 12A-35 in
6 Schedule 1 to the *Taxation Administration Act 1953*.

7 *AIVMA statement* (short for *AIV member annual statement*) has
8 the meaning given by section 276-460.

9 *AIV member annual statement*: see *AIVMA statement*.

10 *AIV royalty payment* has the meaning given by section 12A-40 in
11 Schedule 1 to the *Taxation Administration Act 1953*.

12 **468 Subsection 995-1(1)**

13 Repeal the following definitions:

- 14 (a) definition of *AMIT cost base increase amount*;
- 15 (b) definition of *AMIT cost base net amount*;
- 16 (c) definition of *AMIT cost base reduction amount*;
- 17 (d) definition of *AMIT DIR payment*;
- 18 (e) definition of *AMIT dividend payment*;
- 19 (f) definition of *AMIT interest payment*;
- 20 (g) definition of *AMIT member annual statement*;
- 21 (h) definition of *AMIT royalty payment*;
- 22 (i) definition of *AMMA statement*.

23 **469 Subsection 995-1(1)**

24 Insert:

25 *attribution corporate collective investment vehicle* or *ACCIV* has
26 the meaning given by section 276-20.

27 *attribution investment vehicle* or *AIV* has the meaning given by
28 section 276-7.

29 *carry-forward AIV component deficit*, of a particular character,
30 has the meaning given by section 276-330.

EXPOSURE DRAFT

1 **470 Subsection 995-1(1) (definition of *carry-forward trust***
2 ***component deficit*)**

3 Repeal the definition.

4 **471 Subsection 995-1(1)**

5 Insert:

6 *corporate collective investment vehicle* has the same meaning as in
7 the *Corporations Act 2001*.

8 *corporate director* has the same meaning as in the *Corporations*
9 *Act 2001*.

10 *determined AIV component* has the meaning given by
11 section 276-255.

12 **472 Subsection 995-1(1) (definition of *determined trust***
13 ***component*)**

14 Repeal the definition.

15 **473 Subsection 995-1(1)**

16 Insert:

17 *depository* has the same meaning as in the *Corporations Act 2001*.

18 **474 Subsection 995-1(1) (paragraph (f) of the definition of**
19 ***income tax law*)**

20 Omit “AMIT”, substitute “AIV”.

21 **475 Subsection 995-1(1)**

22 Insert:

23 *investment vehicle withholding tax* means income tax payable
24 under:

25 (a) Subdivision 840-M of this Act; or

26 (b) Subdivision 840-M of the *Income Tax (Transitional*
27 *Provisions) Act 1997*.

28 **476 Subsection 995-1(1) (definition of *managed investment***
29 ***trust withholding tax*)**

30 Repeal the definition.

EXPOSURE DRAFT

1 **477 Subsection 995-1(1) (at the end of the definition of**
2 ***member*)**

3 Add:

4 ; and (f) in relation to a *sub-fund—means a person who is, under
5 section 1141C of the *Corporations Act 2001*, a member of
6 the sub-fund.

7 **478 Subsection 995-1(1) (definition of *non-arm's length***
8 ***income*)**

9 Omit “and 275-610”, substitute “, 275-610 and 276-441”.

10 **479 Subsection 995-1(1)**

11 Insert:

12 *operator*, of an *AIV, has the meaning given by section 276-7.

13 *post-AIVMA actual payment* has the meaning given by
14 section 12A-210 in Schedule 1 to the *Taxation Administration Act*
15 *1953*.

16 **480 Subsection 995-1(1) (definition of *post-AMMA actual***
17 ***payment*)**

18 Repeal the definition.

19 **481 Subsection 995-1(1)**

20 Insert:

21 *pre-AIVMA actual payment* has the meaning given by
22 section 12A-210 in Schedule 1 to the *Taxation Administration Act*
23 *1953*.

24 **482 Subsection 995-1(1) (definition of *pre-AMMA actual***
25 ***payment*)**

26 Repeal the definition.

27 **483 Subsection 995-1(1)**

28 Insert:

29 *sub-fund*, of a *corporate collective investment vehicle, has the
30 meaning given by section 1141 of the *Corporations Act 2001*.

EXPOSURE DRAFT

1 *sub-fund participation interest* has the meaning given by
2 section 276-40.

3 **484 Subsection 995-1(1)**

4 Repeal the following definitions:

5 (a) definition of *trust component*;

6 (b) definition of *trust component deficit*.

7 **485 Subsection 995-1(1)**

8 Insert:

9 *withholding ACCIV* has the meaning given by section 12-384 in
10 Schedule 1 to the *Taxation Administration Act 1953*.

11 *withholding AIV* has the meaning given by section 12A-207 in
12 Schedule 1 to the *Taxation Administration Act 1953*.

13 **486 Subsection 995-1(1) (paragraph (d) of the definition of**
14 ***withholding tax*)**

15 Omit “managed investment trust amounts”, substitute “investment
16 vehicle amounts”.