

31 January 2018

Mr David Hawkins
Corporate and International Tax Division
The Treasury
Langton Crescent
PARKES ACT 2600

By email: CIVreform@treasury.gov.au

Dear Sir,

Corporate Collective Investment Vehicle Bill

We are pleased to make the following submission pursuant to the Feedback Request announced as part of the public release of the CCIV Taxation Draft legislation.

1. Proposed Provision of Capital / Revenue Election for CCIVs

Under s276 it is proposed that ACCIVs and AMITs will be AIVs (Attribution Investment Vehicles) and that AIVs will be provided with an election to be taxed on either capital or revenue account for capital gains.

At first instance we highlight that the provision of such a Capital/Revenue Election is an eminently practical, sensible and necessary solution to the problem otherwise confronted by professional investment vehicles.

In the absence of such an election, investment vehicles must rely on the case law interpretation of capital and revenue to determine the taxable nature of realised capital gains. The interpretation of this distinction for professional investment entities has been debated in courts in the UK and Australia for many decades and remains unsettled. It is neither practical nor desirable for investors, investment vehicles, the Tax Office and Treasury to have uncertainty of interpretation surrounding such a key element of investment markets.

The provision of a statutory solution such as the proposed Capital/Revenue Election prevents future costly disputes, it provides investors and Treasury with certainty of taxation, and encourages investment vehicles to make investment decisions in the best interests of investors (and without an inadvertent taxation bias).

2. Requirement for consistency of taxation through extension of the Capital/Revenue Election to LICs

The taxation of realised gains on sale should be consistent across all widely held, professionally managed passive investment vehicles in line with the objectives of Government to provide a simple, understandable and equitable tax system. It is not desirable, nor is there any reason, to have differential tax treatments on realised gains across differing investment vehicle types.

Accordingly we strongly contend that this same election should be provided to Listed Investment Companies, being the third major class of widely held, professionally managed, passive investment vehicles in Australia.

We highlight that the Board of Taxation has already considered and recommended that this election be provided to Listed Investment Companies. [Ref 4.29 Review of Tax Arrangements Applying to MITs Aug

[WHITEFIELD LTD](http://www.whitefield.com.au) ABN 50 000 012 895

LEVEL 22, MLC CENTRE, 19 MARTIN PLACE, SYDNEY, NSW 2000 / GPO BOX 473 SYDNEY NSW 2001

PHONE: +61 2 8215 7900 FAX: +61 2 8215 7901 WEB: WWW.WHITEFIELD.COM.AU

2009, Ref 3.38 Review of Tax Arrangements Applying to CIVs Dec 2010, Rec 13 Review of Tax Arrangements Applying to CIVs Dec 2011].

We note and support the following submissions and responses to queries already provided to Treasury on this matter by the LIC industry.

- LIC Submission to Treasury 16 Oct 2017 (copy attached)
- LIC Response to Treasury Queries 20 Nov 2017
- LIC Response to Treasury re Board of Tax Recommendations 23 Nov 2017

Yours faithfully,



.....
A.J. Gluskie, Chief Executive Officer
Whitefield Ltd